SENATE—*Monday, October 12, 1998*

(Legislative day of Friday, October 2, 1998)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Five hundred and six years ago, after 34 days at sea, Christopher Columbus sighted land. The sailors on his three ships were near committing a mutiny. In Europe, kings and courtiers scoffed and wise men called him a fool. In spite of the ridicule and the impossible odds, Columbus said, "It was the Lord who put it into my mind; I could feel His hand upon me. All who heard of my project rejected it with laughter, ridiculing me. My hope is in the One who created and sustains me. He is an ever-present help in trouble. When I was extremely depressed, He raised me up with His right hand, saying, 'O man of little faith, get up, it is I; do not be afraid.'"

Let us pray.

Almighty God, Sovereign of history, we praise You for the courage that You gave to Christopher Columbus over five centuries ago. Grant us an explorer's heart, intent on discovering and doing Your will. Overcome our fears; give us hope and vision. May we press on in spite of the cautious voices that would distract us from our calling to follow Your voice. As Columbus followed Your vision, help us to be faithful and obedient to Your vision for our Nation. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. This afternoon, the Senate will begin a period of morning business. Following morning business, the Senate will consider any legislation that may be cleared by unanimous consent only. It is expected that the House will send over a 2-day continuing resolution that will keep the Government operating until midnight Wednesday. That will allow us to continue our negotiations on the omnibus appropriations bill.

I can report that we have been meeting, of course on Sunday afternoon, and we have been meeting this morning, and we are back in sessions now between the House, the Senate and the administration. I think some progress is being made. It is, as most negotiations of this type, forward two, back one. A lot of the appropriations work has been done. We are now talking about language problems and also beginning to consider the supplemental appropriations final composition.

As a reminder to all Members, it is hoped that the remaining legislation of the 105th Congress can be cleared by unanimous consent. However, if a rollcall vote is needed on the omnibus bill, all Members will be given ample notice in order to plan their schedules accordingly. It would appear to me at this time that there probably would not be—well, there will not be any recorded votes on any subject other than the omnibus bill, and that it may not occur until sometime Wednesday. We would look at the possibility of Wednesday morning, but it could be Wednesday afternoon. I think it will be a physical situation at that time, just physically getting the work done and allowing everybody to review it to make sure it is as we had agreed it would be. If there develops here in the next 3 or 4 hours the possibility that there could be a final vote Tuesday afternoon late, we will immediately notify all Members. But it appears that if a vote is required, it will probably be sometime during the day Wednesday, at least as things now stand.

I thank my colleagues for their patience and their assistance.

1999—THE YEAR OF AVIATION

Mr. LOTT. Mr. President, despite the fact that the Senate passed S. 2279, the Wendell H. Ford National Air Transportation System Improvement Act of 1998, it looks like next year will be the year for aviation. This is disappointing, since S. 2279 promised to bring much needed air service to underserved communities throughout the Nation—a promise that will be delayed.

The first session of the 106th Congress should prove to be an important year for our Nation's air passengers. My top aviation policy priority remains to increase regional jet competition and flight service to smaller markets. Most Americans do not live in "Hub" cities and thus do not benefit from the range of choices and concentration of air service options. I look forward to working with my colleagues, on both sides of the aisle, and on the Commerce Committee to insure that rural and underserved communities receive adequate air transportation with improved flight service and more affordable airline tickets.

Commerce Committee Chairman MCCAIN has been a tremendous help. He understands the needs of underserved markets, and fully appreciates that adequate and affordable air service is a vital economic development issue for smaller cities. He too wants to improve the quality and quantity of flights originating from smaller airports. He gets it. I look forward to working with the chairman to build upon the principles set forth in the Ford Act.

Senator SLADE GORTON of Washington, chairman of the Subcomittee on Aviation, has provided pivotal guidance and has been instrumental in bringing focus to the many aspects of aviation. His inclusive and enthusiastic approach has engaged all who work with him.

Additionally, Senator BILL FRIST proved to be a great asset and a very effective advocate for the rural aviation community during this past session. His hard work brought small and underserved communities closer to receiving much needed public policy changes for flight service improvements. I look forward to looking with him in the next Congress to insure that small town America's aviation interests are met.

Aviation policy always effects the management and administration of local airports. Mr. Dirk Vanderleest of the Jackson International Airport is one outstanding Mississippi airport director that counseled me on the needs of small and under served markets. His wisdom is cherished, and his efforts to push Mississippi's aviation priorities are appreciated.

Mr. Gene Smith of the Golden Triangle Regional Airport in Columbus also counseled me on Mississippi's aviation needs. He served as a member of the National Civil Aviation Review Commission and distinguished himself as a supporter for regional jet air transportation. I hope the recommendations made by Mr. Smith and the other Commissioners are not overlooked in the next Congress. I look forward to his continued input in our Nation's future aviation policy discussions.

Next year will be a watershed year for aviation policy. Quality air service for all Americans should be the focus of any aviation legislation. Quality air

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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service is good for economic development, and it is good for Americans in the 21st Century.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. COATS). Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Massachusetts, under the previous order, has 15 minutes.

Mr. KENNEDY. I thank the Chair.

COLUMBUS DAY

Mr. KENNEDY. Mr. President, I wish to pay tribute to the Chaplain for his very fine prayer in opening the Senate today. I think Christopher Columbus would be proud of us. We are doing the business of the Nation that he discovered, and we honor Italian Americans today for all of their contributions.

I don't think there is a place in the Nation where the cause for celebration is more lively or more deeply felt than in my State of Massachusetts, where sons and daughters of Italian immigrants have made such an extraordinary contribution in so many different aspects of life. We honor those brave Italian Americans who faced the seas and struggled for their existence, for their deep-seated commitment to family and to their religion and for their sense of optimism and hope in coming here to the United States. I think we honor them best by being about the business of working families today on Columbus Day and in the final hours of this Congress.

Mr. President, I would like to reserve about the last minute and a half of my time, if I might.

THE EDUCATION PRIORITY

Mr. KENNEDY. Mr. President, I wish to address the Senate briefly this afternoon on an issue of which the President, Senator DASCHLE, and Congressman GEPHARDT, and other members of Congress, have spoken on so many different occasions, and most particularly during the last several days—the negotiations on appropriations which are taking place, even as we meet here this afternoon, on whether we are going to give the education the priority that it deserves. I believe families all over this country want us to get education funding high priority.

Families across the country want the federal government to be a helping hand in improving public schools. This year, the nation will set a new record for elementary and secondary school enrollment. The figure has reached an all-time high of 53 million students—500,000 more students than last year. Communities, states, and Congress must work together to see that these students receive a good education.

Local communities are doing the very best they can to keep up with the increasing demand for good facilities and high academic standards. States are helping. But the issue today is whether we at the Federal Government are going to be a partner in helping to improve public schools for communities and families across the country. I believe we must be a strong education partner. The President believes we must be a strong education partner. We are very hopeful that the final negotiation allocate scarce resources to strengthening the education of the children of the nation.

Mr. President, we know at the outset that money in and of itself is not the answer, but it is a pretty clear indication about what a nation's priorities are. If we look over what the budget was for 1998, we will see that only 2 percent of the Federal budget was actually appropriated in for education. I think most Americans would believe that that percentage ought to be a great deal higher. I certainly do. The President does.

I rise this afternoon to commend the President for making the case he has made in ensuring that in this final funding agreement, we give high priority to education. Some may wonder why we have to be concerned about federal support for education?

I want to review just for a few moments, Mr. President, the decision that was made by the Republican leadership in the House of Representatives in the earlier part of the year that shows why we have to stay here and fight for education funding. If Americans are wondering why the President continues to make statements about the importance of education, let's just review for a few moments how Republicans in the House of Representatives cut funding for education in June of this year. They cut $421 million below the President's request for title I.

Now, it is important to try to understand what the title I program is. The role of the Federal Government in education is to target the children in our country that need the most help. We have made a commitment to children from economically distressed families that they would get extra help in order to help them increase their academic achievement. We can see the need reflected in a wide variety of indicators. In reading, for example, 40 percent of fourth graders are reading below grade level. We decided as a nation that we would give extra help in reading, math, and other academic subjects, to those children who would qualify. That has been a time-honored program. An increase in support for the program was in the President's budget and it was paid for. But our Republican friends decided to cut the program by $421 million below President Clinton's request. I think that cut was a mistake, but that was a decision made by the House of Representatives.

Then, the cut a time-honored piece of legislation known as the Eisenhower Teacher Training Program—a program that helps teachers upgrade their skills so they will be more effective teaching science and math—by $50 million below last year. I believe very strongly that one of our main objectives as a nation should be to have a well-qualified teacher in every classroom in this country. The Eisenhower Teacher Training Program has played a very important and significant role in helping communities meet that goal. Nonetheless, that program was significantly cut back.

I think all of us understand there are political leaders—Members of Congress, those who are running for Governor, those who are running in local communities—who are talking about the importance of new technology in their schools.

We in Massachusetts were 48th out of 50 States in access to the Internet just 4 years ago. Then, in Massachusetts, we formed what was called Net Day, a cooperative effort between the private sector and the public sector, to improve children's access to technology. Now Massachusetts ranks 10th in the country in schools wired to the Internet. That was done by a cooperative effort of the software industries, labor, educators, business and communities. 50 miles of cable were laid down in Boston, voluntarily. All of the people who helped wire those schools understand the importance of having new technology and having Internet access.

Therefore, it is difficult for me to understand why, the House of Representatives cut education technology programs by $137 million below the President's program, and zeroed out the Star School Program, which brings distance learning to rural and underserved communities.

With the school budgets being cut back, critical programs are often eliminated such as music, the arts, and health programs. In addition, rural and underserved communities often have difficulty finding qualified math and science teachers. So, we developed a Star School Program so that all communities would have access to the best teachers who would be able to enter those schools through satellite. It was an overwhelming success. It has been evaluated and reevaluated and it has been one of the most effective programs that we have, particularly in rural areas —in urban areas as well, but particularly in rural areas. But the Star Schools program was zeroed out.

They even cut support for after-school programs. After-school programs have an important impact on providing children opportunities for constructive activities, such as doing their homework with the assistance of a tutor. It also benefits families because when children go home and see their parents who have been working

hard all day, the parents will not be in the situation where they must say, "Go upstairs and do your homework," but they might have some quality time with their children.

After-school programs also help keep children safe, drug-free and out of trouble. We know that juvenile crime peaks in the after-school hours between, 3 p.m. to 8 p.m. By developing after-school programs, we enhance education but we also have a dramatic reduction in juvenile crime and delinquency. The 21st Century Community Learning Center program is a modest program to help create models for other communities in the best practices for after-school programs. But, the Republicans cut the program by $140 million below the President's level.

Beyond that, Republicans in the House eliminated the Summer Jobs Program. A program that provides summer jobs for children who are in some of the most difficult educational and economic situations. A program that is a lifeline in so many communities across this country. Yet they zeroed it out—they didn't' just cut it by a quarter, or cut it in half, or cut it by three-quarters, but they eliminated it.

If you go to Chicago—and I see our friend, Senator DURBIN, from Illinois, who is an expert about this—to find out what is being done to reform their schools, you will find that they are providing academic enrichment and work experiences to children during the summer vacation. But, the Republicans zeroed out every single nickel for the Summer Jobs Program.

If you are asking, as we have heard the Speaker asking and the Republican leader asking, Why should we be suddenly so concerned about education? We need to be concerned because families across the nation want us to help improve education, but instead, Republicans cut the title I program that help the neediest children. They cut the Eisenhower Teacher Training Program. They eliminated the Summer Jobs Program. They cut $130 million from the technology programs for schools. They cut the afterschool program. That is why these hours are important; they make a difference.

The President has proposed that we make needed investments in reducing class size and modernizing our schools. He is making that speech against a background of a GAO report that schools have $112 billion in repair and modernization needs that they cannot address.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I ask for an additional minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. We ought to be doing all we can to repair and modernize the nation's public schools.

What kind of message are we sending to every child in America who goes to a school with leaking pipes, exposed wiring, broken windows, faulty heating systems, and no air conditioning? The message we are sending to every child is, they don't make a difference, they don't count.

We believe, and the President believes, that the children count, and it is important to provide them with safe, modern schools. We are here in these final days, to make sure that, unlike the Republican judgment that was made in the House of Representatives in June of this past year, any budget that is going to bear the President's signature or have our vote is going to make these needed investments in education that are essential for every working family in this country.

Mr. SARBANES. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield.

Mr. SARBANES. Will the Senator agree with me that with this emphasis on the global economy, if we don't educate our children to the fullest measure of their capacity, we are not going to be able to compete internationally? It has assumed a dimension now that we have never confronted before in terms of our economic survival in the world economy.

Mr. KENNEDY. The Senator is absolutely correct. By every kind of indicator of which countries are going to continue to survive and prosper in a world economy, education is the linchpin for these initiatives.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

EDUCATION

Mr. GORTON. Mr. President, it has been interesting to listen to the Senator from Massachusetts beating so industriously upon a dead horse. But the issue before the Congress, I suspect, in these last few days is not going to be on the level of support that the Congress and our appropriations bill provides for the education of our children in all 50 States across the country.

The debate now between the President and the leadership who are working on this budget is over who gets to spend it. The President believes, and the Senator from Massachusetts has outlined in his remarks a whole series of categorical aid programs—money for this specific program, money for that specific program—each of which carries with it its own bureaucracy here in Washington, DC, and, generally speaking, a bureaucracy of the State and always administrators in each school district to fill out all of the forms and to make all of the applications for assistance from the Federal Government. To that extent, an individual school district is lucky if 60 cents or 70 cents out of every dollar supposedly devoted by the Federal Government to education, in fact, ever gets to the classroom and to the students.

No, the battle in these last few days is not going to be over whether or not we shouldn't supply perhaps another billion dollars or more than a billion dollars above what we are already appropriating for the education of our children. It is going to be over whether or not we trust the teachers, the parents, the principals, the superintendents, the elected school board members and thousands of school districts across the United States to determine how that money can be most effectively spent on their students.

Mr. CRAIG. Will the Senator from Washington yield?

Mr. GORTON. He will.

Mr. CRAIG. About a year ago, the Senator from Washington came to the floor and offered an amendment that would dramatically change the way money flows out of Washington back to local schools, local units of education. And as I remember, there was a resounding vote here on the floor in favor of that.

Mr. GORTON. The Senator from Idaho exaggerates a little bit. It was a winning vote; it wasn't quite resounding.

Mr. CRAIG. It was a dramatic vote in the sense that Senators were voting their conscience about where the public wanted the educational dollar to go, not to get bound up in the Federal bureaucracy and have a lot of it spun off here, as the President apparently would want, but for that money to move right back to local units of education. Is that not true, and was that not the goal of this Congress?

Mr. GORTON. This Senate voted for just such a program last year. This Senate voted for just such a program this year. This Senate did so, I am convinced, because while the Federal Government, in spite of all of the speeches on the floor of the Senate and of the House of Representatives, comes up with only about 7 or 8 percent of the money that is spent in our schools that are, of course, primarily locally and State-operated, it comes up with 50 or 60 percent of the rules and regulations that must be met by our school districts, by hiring administrators, not teachers, people to fill out forms and read Federal regulations rather than librarians and new equipment for our students.

It was our attempt last year, and has been our attempt this year, and I hope and trust will be our policy when we finish an appropriations bill in a few days, that we trust the people in the States and in our communities and in our schools to come up with better judgments about the varying priorities of their students than can President Clinton or a Department of Education bureaucracy here in Washington, DC.

The thrust of the point that I have been attempting to make for a couple of years now is just exactly that: Where should this money be spent? Are we the experts here in this body on how each of 14,000 school districts should go about educating its children? Or is the true expertise in those school districts themselves?

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the Senator from Kentucky is recognized to speak for up to 15 minutes.

Mr. SARBANES. Mr. President, will the Senator yield me just 2 minutes?

Mr. FORD. Mr. President, I would like to give everybody some time, but I don't have but 15 minutes myself.

Mr. President, I ask unanimous consent that I might have 20 minutes so I can yield to the Senator from Maryland.

The PRESIDING OFFICER (Mr. GORTON). Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Will the Senator restate his unanimous consent request?

Mr. FORD. I say to my friend from Idaho, I have 15 minutes. The Senator from Maryland would like to have a couple of minutes. I ask my time be extended so I can give him up to 5 minutes.

Mr. CRAIG. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kentucky is recognized.

Mr. FORD. I yield 5 minutes to my friend from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

A PARTNERSHIP IN EDUCATION

Mr. SARBANES. Mr. President, I want to say in view of the comments that were just made, the Eisenhower Program, I ask the Senator from Massachusetts, that dealt with math and science as I understand it?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. That was a program that we put into place during the Eisenhower administration.

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. As I recall, it was done on an overwhelming bipartisan basis.

Mr. KENNEDY. The Senator is correct again.

Mr. SARBANES. It was designed to improve the quality of math and science teachers in the classroom. Now we are being told we are trying to direct where the funds should go. The first point I want to make is that this has a long pedigree coming right from the Eisenhower administration.

Mr. DURBIN. Will the Senator yield?

Mr. SARBANES. Yes, I will yield to the Senator.

Mr. DURBIN. I think it is very interesting. The comments made by the Senator from the State of Washington suggested an enormous percentage of the funds which were being appropriated at the Federal level were spent on administration. I have in my hand an April 1998 report by the Secretary of Education that was requested by appropriators from Congress that is based on data from States, the Coopers & Lybrand financial analysis model, and GAO reports, completed this summer, which I think should be part of the RECORD on this debate, and it says:

> One-half of 1 percent of the Federal funding for elementary and secondary education programs is spent on Federal administration.

One-half of 1 percent.

> States retain on average an additional 2 percent. The remaining 97.5 percent goes to local school districts.

End of quote from the report. To suggest that it is 50 to 60 percent cost of administration really doesn't square with the facts given us in this report.

> Across more than 20 major State formula programs, States, in fiscal year 1995, retained an average of only 4 percent of the money at the State level; they distributed the remaining 96 percent to school districts and other recipients, such as colleges and universities. For the program under the Elementary and Secondary Education Act, the percent retained at the State level was even lower—about 2 percent. For Title I, the largest Federal elementary and secondary program, States retain only about 1 percent of the funds. . .
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> The Department uses a very small portion of our appropriation for Federal administration. In fiscal year 1999, we will expend only about $87 million to administer some $20 billion in elementary and secondary programs; these funds come from a separate Program Administration budget account, not from funds appropriated for grants to States or school districts. Even with the addition of related research, leadership, and operations costs, the Department spends only the equivalent of about 0.5 percent of elementary and secondary funds for Federal administration.

Mr. SARBANES. I thank the Senator for his intervention. That is a very important point. Because the critics stand up and say it is all going to administration. Now we learn 2.5 percent of it, Federal and State, as I understand it from the Senator, is going to administration. I think we need to underscore that.

I want to come back to this notion that we are trying to direct where the money should go and somehow that is a departure from past practice or hasn't in the past, at least, had strong bipartisan support.

It is clear that math and science is one of the critical areas. I earlier asked the Senator, wasn't this whole education emphasis important to the U.S. competitive role in the world economy. We can look at what other countries are doing, and we know the kind of investments they are making in math and science. We started with the Eisenhower administration, and that, I think, was at the time of Sputnik that that program was energized to try to improve the quality of math and science. We had some successes, but there has been a relapse, there has been a lapse back, and one of the programs that was cut, as I understand it from the Senator from Massachusetts, and which he is emphasizing we need to restore, is this program to improve the quality of the math and science teachers in the schools all across our country. Is that correct?

Mr. KENNEDY. Yes, absolutely correct.

Mr. SARBANES. Mr. President, it seems to me—and the other program, I take it, is we have a deterioration in the physical quality of many of our public schools in the Nation. Young children are going to school in circumstances that no one would tolerate. In fact, I understand some of these schools do not meet ordinary building standards. And there are serious problems in that regard.

Once again, we are trying to emphasize a program. Of course, another aspect of what the President is pushing for is more teachers in the classrooms so we can have smaller class sizes, which most people agree is extremely important in the lower grades where we are trying to teach reading and we first introduce young people into their education.

In fact, I ask the Senator, what is the situation with respect to overcrowded classrooms across the country?

Mr. KENNEDY. The Senator is quite correct in his general summation of the approach of the President. And that is: One, to have smaller class sizes; two, to upgrade and modernize schools; three, to have an effective after-school program; four, to enhance the quality of teaching in the classroom; five, to ensure that we are going to have access to the new technology and that that is going to be available in the public schools so these children are going to be able to move ahead; six, to raise academic standards for all children; and then seven, to try to get the encouragement to those students to go on to higher education.

That is all part of the partnership, among the local community, the States, and the Federal Government. This is not just a singular effort; this is a partnership. And when you eliminate the Federal assistance in that partnership, you undermine critical support for improving education that is so important to families and their children.

Mr. SARBANES. If I recall the chart that the Senator earlier displayed on juvenile crime, it peaks in the hours I think between about 3 and 8 p.m., which makes the after-school programs extremely important.

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The time of the Senator from Maryland has expired.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. The Senator from Kentucky has 15 minutes.

Mr. FORD. I yield the floor, Mr. President, and will take my time later because some here need to go ahead. I am happy to yield.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska has up to 30 minutes under the previous order.

NATIONAL SECURITY AND INFORMATION TECHNOLOGY

Mr. KERREY. Mr. President, in the last 15 years America has been invaded by what has been known as information technology. Like the body snatchers of "Alien" that penetrated deep into the human body, computers and communication technologies have penetrated deep into our lives. Unfortunately, the "Alien" metaphor may not be apt since for the most part we have invited this force into our homes.

We invited these technologies into our homes and our businesses because they allowed us to do things faster, to do things better and to do things cheaper. Among other things these technologies have reduced the cost of running a home, made our businesses more competitive, opened new markets by bringing buyers and sellers closer together, and expanded the horizons of our students not to mention adding entertainment value to our lives.

The good news of computer and associated communication technology have been offset by our growing dependence. To see how much we are dependent one need only look at the high level of concern surrounding the Y2K problem. Computer software is written so that at a second after midnight on January 1, 2000, while hundreds of millions of humans will be celebrating the end of an old millennium and the beginning of a new, our computers will act as if it is January 1, 1900. To the machines this will be the equivalent of day light saving century.

To some this is the beginning of a humorous and good news story: No income tax, a chance to correct the terrible mistakes of the past 100 years, and so forth. However, for those who operate our banking, emergency response, air traffic control, and power systems this will be nothing to laugh at. So dire are the predictions of some who understand how dependent on computers and software we have become that they talk as though they are storing up food and medical supplies just in case.

None of this would have happened if the century had ended 20 years earlier because computers, chips, and microprocessors were not yet running things. Twenty years ago I was hearing people tell me about how computers were going to change the world. It would be 5 more years before I had my first personal computer: an Apple IIE. In 1983 portable computers were available to those with strong backs or a fork lift. E-mail was in its infancy. The internet was 10 years away from its grand opening to the public. Software was built into mainframes and was available to those who knew how to navigate the procession of prompts and confusing signs. Speed was a snail's pace. Capacity was like a rain drop in the desert.

Mr. President, what happened in the past 20 years is that we were thirsty for the things a computer could do for us. Rapid and accurate calculations enabled even small businesses to get costs under control. Personal computers empowered us. Desk tops enabled us.

Lap tops liberated. Decision making - once driven from the top down by men and women with MBA degrees—has been distributed outward and downward.

Mr. President, now, any PC or Macintosh with average speed and power with state of the art connectivity makes its user a publisher, broadcaster, editor, opinion maker, and analyst of large amounts of previously confusing data.

Advances in computer and telecommunications technology have spurred change and growth in our economy. These changes have generated wealth and jobs by creating new businesses and destroying old ones. Market oriented businesses have had to adjust or perish. Public institutions, because of the nature of democracy—in other words, Majority rules but narrow interests win elections—have been changing much more slowly.

Slowly but surely the work of transferring knowledge from a teacher to a student is being done with the assistance of computers, software, and new systems where new skills are needed.

The vision of this 1998 IRS Restructuring and Reform Act is that this agency will move from a paper to an electronic world. The National Imaging and Mapping Agency—a consolidated combat support agency—will in a few years talk about maps as those things we used in the good old days back when dinosaurs roamed the Earth.

In fact, nowhere are the changes of the computer age more pronounced than in our military and intelligence gathering forces, which is what I choose to discuss on the floor today. Computers and communication technologies have made America's fighting forces stronger and more effective. We should be proud of the men and women who have trained and prepared themselves to take advantage of these new tools.

However, we also need to be alert to a hard truth: With strength comes vulnerabilities. Just as Achilles was held by his heel as he was dipped in the potion that made him unbeatable, we need to be alert to those small spaces where a determined enemy could do us great harm.

If we are to maintain our economic success and provide the security our citizens expect and deserve, we must as a nation turn to address our weaknesses.

The ability of people to use information technology to reach into our homes and to amass vast amounts of personal data threatens our sense of privacy. The omnipresence of this technology has caused our society to develop a dependency on silicon chips and the wires that connect them. And, the connectivity that now brings us so many benefits may also be a vulnerability that nations and terrorists could use to threaten our security.

We have been blessed by our dominance in high-technology industries and in our society's acceptance of new information technology. Information systems are the backbone of America's telecommunications and electrical power grids, banking and finance systems, our transportation systems, broadcast and cable industries, and many other businesses besides. They have helped American workers become more productive, have brought new efficiencies in the use and distribution of resources, and have helped our Nation grow to be the most advanced and competitive economy in the world.

We owe a large part of that success to the ingenuity, perseverance, and vision of America's information technology companies and their employees. The story of how computer companies started in garages can grow into multibillion dollar corporations is almost legendary. An industry virtually nonexistent twenty five years ago has brought enormous wealth and opportunity to thousands of Americans.

Mr. President, information technology has transformed our Nation's economy, and, as we enter into the 21st century, our Nation's livelihood will depend on continued development of this industry. But the wonder of this technology is how its success has brought extraordinary changes to other aspects of our lives.

Modern information technologies provide us with unheard-of opportunities in education, business, health care, and other life-enriching areas. Information technology empowers people to continue their educations and upgrade their skills throughout life. Education no longer ends at the schoolhouse door. In addition, new technologies are extending lifesaving medical care to remote rural areas and promoting healthy communities across the country. These new avenues to information better inform our electorate, and the improved means of communication

make it far easier for individual citizens to express their views to the general public and to their elected representatives.

In combination, these technological benefits allow people—both young and old—to develop new skills, explore new interests, and improve their lives.

America's technological strength is the envy of nations around the globe. But that strength, if not understood and protected, may also be our Achilles' heel.

We have been blessed this year with a number of warnings about this grave and far-reaching threat. We have been blessed with warnings about the interdependence of our information infrastructures, the interlocking network that can make local hospitals and airports victims just as easily as multinational corporations and media conglomerates. We need to heed the warning and respond to this danger.

Just a few weeks ago, the media reported that the electronic mail programs the vast majority of Americans use had vital, hidden flaws.

Simply opening an e-mail message could unleash a malicious virus and allow that virus to freeze your computer, steal data, or erase your hard drive. I realize there are some people in the United States—many of them here in the Senate—who still do not use e-mail. But our society today relies upon electronic mail for use in Government and commercial communications, for business management and project coordination, and personal entertainment and missives. A malicious person could potentially have used these flaws to blackmail people or companies, to disrupt Government and commercial activity, or to sabotage civilian or military databases.

Just a few months ago, one satellite orbiting more than 22,000 miles above the state of Kansas began tumbling out of control. It was the worst outage in the history of satellites. By conservative estimates, more than 35 million people lost the use of their pagers, including everyone from school children and repairmen to doctors, nurses, and other emergency personnel.

All of that was the result of one small computer on a satellite 22,000 miles into outer space.

Earlier this year, we were in the middle of a very tense standoff with Saddam Hussein. And we were able to track an attack on the Pentagon's computer system to a site in the Middle East, in the United Arab Emirates. There was a legitimate question at the time: Was this an act of war? Was it a terrorist? Or was it, as it turned out to be, teenage hackers inappropriately and illegally using their home computers? The implications of an effective attack against our military's information systems would be devastating during a time of crisis. This attack failed, but will we be as fortunate in the future?

I do not think these incidents are a statement about software companies, the satellite industry, or teenage computer aficionados.

These incidents are a warning—loud, clear, and wide—about the dependence of the American economy and the American people on information technology. Our use of information technology has helped us achieve and maintain our status as the world's strongest nation. But our dependence on information technology also brings exploitable weaknesses that, like the Lilliputians to the giant Gulliver, may enable our weaker adversaries to cause great damage to our nation.

In Jonathan Swift's tale, the Lilliputians used their mastery of mathematics and technology to defeat their much more powerful adversary Gulliver. Today, weaker adversaries may use their mastery of information technology to invade our privacy, steal from our companies, and threaten our security.

The revolution in Information Technology has propelled the United States to an unparalleled position in the global economy. The principles of freedom and democracy that we champion are ascendant throughout the world.

We have the world's largest economy, and we trade more than any other nation. Our military strength, in conventional and nuclear terms, is greater than that of any other nation. In short, we are the sole remaining superpower in the world.

And yet, we still find ourselves vulnerable to individuals or groups—terrorists, criminals, saboteurs—who have a fraction of the manpower, weaponry, or resources we possess. In many ways, we are a technological Gulliver. America's massive shift toward an economy that is based on information technology has been a mixed blessing. Because we have the most complex, multifaceted economy, we are a multifaceted target.

And our strategic vulnerability has risen hand-in-hand with our economic power. Like the Lilliputians, there are people who have used the principles of mathematics and science to master technology.

They are so small in scale compared to the threats that we usually see that we have to strain our eyes just to identify them and figure out what they are doing. Gulliver, if you recall, did not win his freedom with a single act or weapon. He used a combination of things: sometimes he used his power, sometimes he used wit, and he learned from his experience how to deal with his adversaries.

Mr. President, Congress urgently needs to establish a bipartisan agenda designed to create more economic opportunities in technology and to close our vulnerabilities. The following is my attempt to suggest what is needed:

1. We need more competition, not less. Congress passed the Telecommunications Act of 1996 with the hopes of increasing competition and improving access to communications technologies. Unfortunately, competition has not developed on the scale anticipated when the Act was passed.

Nearly 3 years after the Act, most telecommunications customers lack the ability to simply switch telephone companies. In 1999 I hope Congress will make changes in the law needed to bring the benefits of competition - lower prices and higher quality - to the American household.

2. We need a special effort to make technology a part of our educational system. More money should be appropriate for research and training. Regulations need to be written so the market can offer curricula-relevant courses to students in the home and school. We need to settle the disputes surrounding the E-Rate so our school boards can plan and budget accordingly.

3. We need bipartisan agreement on how to protect privacy and security. The encryption debate has hobbled our efforts to write laws that enable our law enforcement and national security agencies to carry out their mission of keeping Americans safe while harnessing the power of the market to increase security and privacy.

Any discussion of security on-line must inevitably involve encryption issues. Over the past five years, the debate over encryption policy has pitted law enforcement, national security, privacy, and commercial interests against one another. Yet, all these interests would agree that providing security in our public networks is essential to fully exploit the potential of information technology.

Personal privacy in the digital world should not suffer at the hand of unreasonable export laws. Therefore, Congress should take action in the coming year to remove export restrictions on encryption products of any strength. I am confident that through cooperation between Government and industry, encryption can be exported without compromising the legitimate needs of law enforcement and national security. A compromise can be crafted if all parties, both private and public, are willing to work together to solve the common goal of maintaining America's national security in the new digital age.

4. We should create in law a panel consisting of members of Congress, Administration officials, and leaders in high-technology industries to address the implications of information technology on our society and our security. We should also create a new national laboratory for information technology that will both perform research in this field and serve as a forum for further discussions of the issues arising from information technology.

Mr. President, it is this fourth idea—a new panel and a new laboratory—

that I would like to discuss today. Why do we need this?

We need this, for starters, because the new threat of information warfare requires a new paradigm in which the military must rely like never before on other organizations and institutions to achieve success.

Even if all of the information safeguards for the Defense Department's data, equipment, and operations were airtight, that would not be adequate. Currently, more than 95% of all wide-area defense telecommunications travel on commercial circuits and networks. And it would be impossible to replicate that type of capability on our own.

Should an electronic attack come, it will likely not be aimed just at military targets, but at civilian sectors as well. It is not simply that the private sector relies on the military. The military relies on the private sector.

That is one reason we as a government cannot afford to ignore the defense of the public and private sector infrastructure: We cannot do our most basic job—protecting national security—without that.

In this new world of technology, if one of us gets tripped, we all risk a fall.

Our Government, as it is now organized, can scarcely cope with these new challenges. We need to address the development and vulnerability of the American information infrastructure now. The regulatory frameworks established over the past 60 years for telecommunication, radio and television may not, in fact, most likely will not, fit the Information Economy. Existing laws and regulations should be reviewed and revised or eliminated to reflect the needs of the new electronic age.

As a government, we need to reassess the areas of responsibility of our different parts, and the lines of authority that connect them, to ensure we are best organized to face this threat.

More than two dozen federal agencies have either jurisdiction or a direct interest in the regulation of information technology as it applies to national security or electronic commerce. The Congress is no better off. In Congress, some 19 committees are responsible for legislation on the same issues.

The Government has much to offer, through our understanding of security concepts and technology, along with the vulnerabilities of information technology and systems. We are strongly committed to share this knowledge with the private sector. Such partnerships are crucial, but there are some pitfalls, and we will need to build a balanced approach. For example: We have to be careful not to give the impression that Government wants to increase its involvement in the day-to-day operations of individual businesses.

This is not at all the case, and few things will drive the private sector away like the potential for more Government intrusion and regulation.

"Government Knows Best" is not the message we want to send.

As a general principle, Government should step in only when problems exceed the capabilities of the private sector and the remedies of the marketplace. However, in cases where there are no reasonable business reasons for companies to make preparations, such as to counter a coordinated, simultaneous attack against multiple infrastructures, then Government should be prepared to provide economic incentives and support.

A natural market exists for security and, ultimately, that will be our best course of action: a solution that combines the entrepreneurial strength and energy of the private sector with the national mission of the Government.

One cannot overstate how important it is to get the Government-industry relationships right, because without them as a foundation, the value of all other efforts will be significantly diminished. A fundamental challenge in many cases is getting information about vulnerabilities and threats itself, and this simply cannot be done without the foundation of public-private sector information sharing. We cannot solve this by unilateral Government efforts. We have to move together to solve it.

Mr. President, it is no surprise that both the Government and private sector are finding this difficult and complicated and frustrating. To combat cyber attacks—whether by terrorists, spies, disgruntled employees, pranksters—one needs both technical sophistication and cooperation among numerous companies, agencies and nations.

It is going to be imperative for the protection of our information infrastructure that the private sector, national security officials, and law enforcement work together—not just on this issue, but on issues for the future.

Many fear these discussions would lead to Government intrusiveness and abuse of power. Americans have always had a healthy skepticism towards Government power and our Constitution sets strict limits on what Government can and cannot do. We are a strong and vibrant nation directly because we enjoy rights of free speech, free assembly, and against unreasonable searches and seizures. Information technology can allow us greater exercise of those rights. When we examine the security of information technology, these rights must remain our guiding principles, and our Government policies should reflect them.

We must get past the suspicion between the private sector and Government and move forward. The information infrastructure is vital to America's defense and to America's economy and we cannot preserve one without protecting the other.

Here we need two things: First, we need a mechanism that transcends narrow organizational politics to bring consensus; and, secondly, we need a facility for advanced research into information technology protection that also provides a venue for constructive and ongoing dialog with industry, the Government, and academia.

I believe Congress should act as soon as possible to create a blue-ribbon panel of top federal officials, key leaders from Capitol Hill, and experts from the high-technology field to address the issues of information assurance, infrastructure protection, and encryption that cut across committee lines. We need to have a panel that can speak with authority on both politics and policy.

From the White House, we need to see a commitment of time, attention, and resources at the highest levels.

Cabinet officers need to play an active role in shaping the solutions that are going to emerge from such a panel. These issues are complicated and they have far-reaching implications, so at the end of the day we need to have leaders in their respective areas—Cabinet and Cabinet-level officials—who are prepared to forge the necessary compromises and make the case to industry and to the public. Congress needs to take a similarly pragmatic approach. Committee chairpersons, with their expertise in different areas and institutional memory, need to be on this panel and give it all the attention they would a piece of legislation. But in addition we need to acknowledge the politically charged nature of these issues and be prepared to deal with them. So I propose that we not only have representatives by issue area, but representatives who are designated to speak for each major faction in the Congress: a representative of the majority in the Senate, and one for the House, a representative of the minority in the Senate, and one for the House, and representatives of the legislative caucuses that have an interest.

Clearly Government cannot do this alone. We need the perspective, the insight, and the vision of experts who are part of the developments in the information technology field and who can predict on the basis of that experience where technology is going. We need their expertise and a willingness to work with their government, for otherwise this problem will only grow worse. The panel I envision must therefore have a strong component of private sector experts devoted both to the advancement of technology and to the security of our country.

The complement to this Congressional panel should be a forum where Government, industry, and academic officials can work on these problems in a systematic, confidential, and dispassionate way. I propose that we learn from our experience and look to those

models of industry-and-Government cooperation that have worked in the past.

We can learn from agencies like the National Safety Transportation Board, DARPA, and other federally funded research and development centers. Specifically, Congress should pass legislation that would enable the President to create a new national laboratory and research facility to address information infrastructure protection. The role and mission of such an organization would be to target those specific areas that are now suffering from sporadic, contradictory, or insufficient attention.

We must have a structure that can address the entire range of national security planning and execution—in other words, threat assessment and evaluation, development of requirements, R&D, acquisition and procurement, development of strategy and the conduct of operations across the entire spectrum, from large-scale conflict to peacekeeping and operations other than war. But this center would also help develop techniques, policies, and procedures to make civilian and commercial information technologies secure.

To accomplish that mission, the information technology laboratory would have to: Support research and development by industry or Government-industry consortiums that aims to protect our privacy, shield our commercial interests, and defend our nation against information technology threats; ensure that there is a secure conduit for the exchange of information about security threats; provide a forum for developing and managing responses and contingency plans, both directly and in cooperation with a national command authority.

The Information Technology Laboratory would be funded through annual appropriations as a Federally Funded Research and Development Center. But it should also be able to establish fee-based contracts with agencies of federal, state, and local government as well as universities for specific services so that budget costs could be kept to a minimum.

The Information Technology Laboratory could also contract with private industry to do research and development, while taking special precautions to protect the confidentiality of proprietary data or information. The laboratory would also report annually to the appropriate oversight committees in Congress and the President.

In just four years from now, knowledge and information workers will make up one third of all the workers in our multi-trillion dollar economy. We can create a safe corridor for their passage to the next century. Or we can continue to talk past each other while the Information Superhighway attracts more and more robbers and frauds and terrorists.

We need to come to this task with a clear sense of purpose and full understanding of the urgency involved. America has gained much from information technology, and stands to gain much more as these systems mature. Our future depends on the success of this technology.

But that success and our security depend on finding the policies and practices that will identify and correct vulnerabilities before they are exploited. Together, I am certain we can address this problem. In a noble but imperfect democracy such as ours, answers are not impossible, they are only impending. I look forward to working with my colleagues to face this challenge. I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

UNANIMOUS-CONSENT AGREEMENT—CONTINUING GOVERNMENT FUNDING

Mr. CRAIG. Mr. President, on behalf of the majority leader, I have a couple of unanimous-consent requests.

I ask unanimous consent that when the Senate receives from the House legislation providing for continued Government funding until midnight on Wednesday, October 14, the resolution be considered agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, Mr. President, and I am sure I won't. Let me check for just a moment.

Mr. CRAIG. Mr. President, I believe it has been cleared with the other side.

Mr. FORD. Mr. President, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that morning business be extended until 4 p.m. today, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, with that, I will continue now and speak in morning business for 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

EDUCATION

Mr. CRAIG. Mr. President, a great deal has been talked about here this afternoon as to what this Congress and our President will do on the issue of education. I am, once again, pleased to see our President engaged and spending time talking about education. He spent so much time skipping class and trying to avoid detention that he failed to learn about what Republicans and the majority here in Congress have been doing on behalf of education for the last good many months.

It is with that in mind that I would like to, for a few moments, talk about what we have done and what is being done. I am pleased that the President is once again engaged. We finally got his attention in the last week. He is staying in the White House and trying to work with us to resolve some of these issues. That is important. It is time that Congress adjourn, but most important, we must finish our work before we go.

The President did come home on occasion to veto a few bills this year, but he seems to have forgotten them. He seems to have forgotten the Coverdell A+ education bill that he vetoed, which would have provided educational savings accounts, would have allowed parents to set aside $2,000 a year per child for educational expenses, and teacher testing and merit pay would reward teachers for their performance in the classroom. That was part of the bill that he vetoed. It also included dollars to the classroom, which would put money directly from the Federal Government into helping students instead of the bureaucrats. It is interesting that my colleagues on the other side, a few moments ago, introduced information about what GAO said. Let me tell you what the Federal Government said, what the Department of Education said about its own problems with paperwork and the burning up of valuable educational dollars. The U.S. Department of Education estimates that it takes approximately 48.6 million paperwork hours—the equivalent of almost 25,000 employees working 40 hours a week for a full year—to complete the paperwork involving the administration of the Federal education programs. The Senator from Washington spoke about the amount of time that local units of education use filling out the paperwork.

In my State of Idaho, as is true in Iowa, Ohio or any other State across the Nation, 50 percent of its paperwork burden is directly related to the 5 percent of the money that it gets. What happened? The President vetoed it. He came home, focused for a few moments, vetoed it, and left town again.

What about the tax regarding the College Tuition Program, encouraging parents to save for their child's college education? That, too, was vetoed by the President.

So when this President stands up and says, "I want billions of dollars more for education," what he is saying is, "I want billions of dollars more here in Washington to be run through a Federal system to be directed out for education," while this Senate voted, by a majority, to do quite the opposite—to

literally turn the public loose to fund education without Federal strings.

Eighty-four percent of Federal elementary and secondary education funds are used for instruction, according to the April 1998 report by the U.S. Department of Education. What happened to the other percentage? Let's see. I guess that would be 16 percent. What happened? Overhead and administration. That is what it cost to get the money out.

You see, there is a game played in this town. It is how big you can build the agency and how many times you can roll the paper before you send the money out.

That is exactly what this Congress tried to avoid. That is exactly what we did avoid with legislation passed by this Senate and passed by the House and vetoed by this President.

Now that we are attempting to adjourn our Congress, just in the last few days the President is home back in school, not avoiding classes, and he is trying to spend, or spin his story about education.

Mr. President, why did you veto all of these productive pieces of legislation that were passed by a majority, a bipartisan majority, in Congress? Why did you veto legislation that, when polled, well over 60 percent of the American people said it gave more power to the family, to the parent, to the local education school board? That is what America wants. They don't want 100,000 federally paid-for teachers and a bureaucracy to go along, and over 20 percent of the money staying right here to be spent on thousands and thousands of hours of paperwork.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky still has his 5 minutes.

Mr. FORD. I thank the Chair very kindly. I appreciate it very much.

RETIREMENT OF SENATE COLLEAGUES

Mr. FORD. Mr. President, as the 105th Congress comes to a close, I want to take a moment to say thank you to my fellow colleagues who, like me, will be retiring this year.

I came to the Senate in 1974 with Senators GLENN and BUMPERS. It was a different time, when campaigns were still won by going door to door, when the Senate itself was much more open to compromise and bipartisanship.

Despite the changes in the Senate, Senator BUMPERS has continued to be a voice for his State, never giving up the fight for something in which he believed. And when the Senate itself began to listen, they began to respond. In fact, after fighting 19 years to reform the National Parks concessions operations, he finally won approval of the legislation on last Thursday.

And while it's true the Senate long ago lost its reputation as a place of eloquent debate, my colleague from Arkansas has proven time and again the power of words with his skillful oratory, whether the issue was arms control, education or balancing the budget. In all my years here in Washington, I was never so moved as I was by a speech he gave on preserving the Manassas, Virginia, Civil War Battlefield. He not only changed votes, but he reminded his colleagues and the American people that our greatest strength lies in our ability to give voice to our beliefs and to our constituent's concerns.

Like Mark Twain who came into this world with Halley's comet and left this world with the return, Senator GLENN came into the public eye with his historic orbit around the earth and he will close out his public career with another historic flight into space. In between, he's demonstrated over and over that he's truly made of the "right stuff."

As the "Almanac of American Politics" wrote, he is "the embodiment of the small town virtues of family, God-fearing religion, duty, patriotism and hard work . . .". And over the years, he has brought the same fight and determination that made him a brilliant fighter pilot to his efforts to expand educational opportunities, increase funding for scientific research, to clean up nuclear waste sites, promote civil rights and to make our government more efficient.

Despite their long list of contributions in the Senate, perhaps their greatest contributions to this nation are still to come. Senator BUMPERS has talked about going back to Arkansas to teach and Senator GLENN has said once he gets back down to earth, he'll work to steer young people toward public service. I can't think of a greater honor than to say I've served alongside these two men and shared their vision of a better America.

I also want to thank my two retiring colleagues on the other side of the aisle. We may not have always agreed on which road to take, but I believe we always shared a deep commitment to our country and its betterment. Whether you agree or not with Senator COATS' position on the issues, everyone in this chamber will agree he's willing to roll up his sleeves and do the hard work necessary to accomplish his goals. He's brought the same tenacity to the Senate that found him at three percent in the polls when he began his first congressional bid and had him winning by 58 percent on election day. He got that win the old-fashioned way, organizing block by block and pressing his case one-on-one.

Senator KEMPTHORNE has only been a part of this institution for just one term, but he has already proven that he can work with his colleagues to pass laws, like the unfunded mandates bill, in a place where it's often easier to move mountains than a piece of legislation. The Safe Drinking Water Act of 1996 was a perfect example of his ability to bring together scientists, activists on both sides of the issue, and public health experts to craft legislation that each one had a stake in seeing succeed. So while he may have spent just a short while in these Halls, he demonstrated that it is only through compromise that we can achieve solutions in the best interest of the nation.

So Mr. President, let me tell my fellow retirees what a privilege it has been to serve with you over the years and how grateful I am for your commitment to public service and the American people.

FAREWELL TO THE SENATE

Mr. FORD. Mr. President, I want to make a few brief remarks, share a few thoughts, and express my heart felt thanks to a number of individuals who have made my life in the Senate a little bit easier and a little bit more enjoyable than it otherwise would have been.

I have been privileged to serve in this body since December 28, 1974. As I look back, it is amazing how much progress we have made as a country during that period. The average life expectancy in this country has increased by 4 years. The average per capita income after adjusting for inflation, has risen 40 percent during this time period. The portion of adults with at least a high school diploma has risen from about two-thirds of adults to more than four-fifths. The percentage of adults with at least a bachelor's degree has risen from 14 percent to 25 percent.

So we are living longer and healthier lives, we are wealthier, and we are better educated.

And the quality of life has improved in many other ways as well. We have an almost unlimited ability to communicate. The developments with computers in recent years have been almost breathtaking. Children understand computers at an early age—often before they even start school. The percentage of homes with computers keeps rising. We have cell phones and laptops and cable TV and satellite dishes and fax machines. Our access to information is better and faster than ever.

We have opportunities to travel more, live in bigger homes, and eat more nutritious meals. We spend more on entertainment than ever.

But Mr. President, our challenges are probably greater than ever.

I entered the Senate at the beginning of a period of deep cynicism and distrust of government, having just come through the Vietnam war and Watergate. We have always had a very healthy distrust of government in this country, but 1974 was an especially

troublesome time. And I have witnessed a fascinating national debate on the role of government during the period since. The cynicism from Watergate evolved into a crisis of confidence in our country, and a growing feeling by some through the 1980's that government was the major source of many problems in our society, not the solution.

But the debate of the role of government has continued to evolve. I think we are at the point today where there is a fairly broad consensus among Americans about certain aspects of government.

There is a consensus about certain things that Americans want from their government—a strong defense, the best educational system in the world, managing the economy in an efficient way, including balanced budgets, low inflation, low interest rates, low unemployment, and the least amount of taxation and regulation possible. Americans want fair rules in the workplace and the marketplace, from family leave to fair trade to basic consumer protection. They want an adequate infrastructure to sustain a successful and growing economy. And they expect minimal safety and health protections, from law enforcement to food and drug safety to providing health care for the elderly and the poor.

I have found that almost all of my colleagues want these things as well. We often differ on the best approach, or the best philosophy, for meeting these goals and providing what our constituents want, but we are all basically after the same things.

Some of my colleagues on the other side of aisle still use the rhetoric from the 1980's about being for lower taxes and smaller government. Who could be against that? But most of these same colleagues are also for all of the things I just mentioned. They would agree with me that these are all things that our constituents demand and expect us to address. We all want the smallest government possible, but we want government to deliver on all of these things. So it is a challenge for all of us.

And the future challenges for the next Congress and beyond will be even more complex. I mentioned earlier that we are living longer. The standard retirement age has not gone up since I came to the Senate. In fact, the average private sector retirement age has gone down. But we live longer. The percentage of the population age 65 and older is up to about 13 percent today, and is projected to continue to grow. During my tenure in the Senate, I have seen federal spending on Social Security grow from $64 to $380 billion. I have seen Medicare spending increase from $13 to $220 billion. And roughly half of Medicaid spending, which has gone from $7 to $100 billion in the budget, is attributable to nursing home care. These three areas alone—Social Security, Medicare, and Medicaid—have gone from about 25 percent of the total budget to roughly 42 percent of the total budget. Without question, the major budget issue in the next few years is how we deal with the costs associated with the elderly.

And it is a quality issue as well. Many of the same trends which are currently affecting managed care in the private sector will certainly affect the quality of medical care received by the elderly. I wish we had made more progress in these areas before my time in the Senate expired. I wish my colleagues well in addressing these issues and urge them to do so earlier rather than later. I know many colleagues share my sentiments.

The other area I would urge my colleagues to address is the financing and operation of campaigns. Here is an area that has changed dramatically during my 24 years. When I announced my retirement from the Senate, I mentioned the two "M's,"—Money and Meanness—as major reasons why I chose not to run again. Now that we are in the midst of the current campaign season, I believe even stronger about this issue. As reported in the newspaper yesterday, PACs have collected almost $360 million in the last 18 months. We all like to say that the money does not influence how we vote and how we think, but, truthfully, it is a matter of degree. There needs to be a stronger ethic of avoiding even the appearance of a conflict of interest. We need more of that in politics—much more of it. Senators who solicit campaign contributions and then within a very short period of time are casting votes and making decisions on matters which greatly affect both the contributors and the Senator's constituents place themselves in very difficult situations. It goes to the heart of our system of Democracy, and whether it works or will continue to work. There has got to be a better way. There are also a lot of ideas around here on how to make a better way. I can only hope some of these ideas are translated into law in the very near future.

So, Mr. President, I wish may colleagues well. I will miss the institution dearly. I will miss the daily interaction with my colleagues, many of whom have become such dear friends to me. Let me thank you for your friendship. And lastly, let me thank staff. My personal office staff, both here and in the state offices, have been like family to me. I have tried to treat them that way, and it has been mutual. The committee staff and floor staff I have been privileged to work with over the years have all been great to me as well—they make this place run and make us all look good from time to time. I thank them all for their support and service to our country. This country would not be nearly what it is without office, committee and floor staff. As I leave the Senate, please know that I will keep you all in my thoughts and prayers, and wish all of you good luck and happiness in the years to come.

Mr. President, for perhaps the last time, I yield the floor.

Mr. DORGAN. Mr. President, will the Senator from Kentucky yield for a moment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BURNS. Mr. President, if the Senator from North Dakota wants to be recognized, very shortly I have to take the Chair and I want to make my statement.

Mr. DORGAN. I wonder if I might ask unanimous consent to speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WENDELL FORD

Mr. DORGAN. I did want to say, having listened to the Senator from Kentucky, my expectation is that virtually every Member of this Senate, Republican and Democrat alike, shares my feelings about the Senator from Kentucky. He is tough, he is honest, he gets things done in the Senate, and we are going to miss him a great deal.

I know the Senator from Montana feels that way, as does the Senator from Texas. Some of our other colleagues are not here. But one of the privileges of serving in this body is serving with some of the best men and women I have ever had the opportunity to work with in my life, and I count among that group the Senator from Kentucky, Senator FORD.

I would like to say, as he leaves the Senate, I thank him for his public service to our country. He, because he served in this body, has contributed to the well-being of America. We are going to miss him a great deal. I expect he will not be going far. I know he is going fishing, and I know he is going to be involved in public service in his own way, dealing with educating young people about civic responsibilities and about government. I just want to say he has contributed a substantial amount of service to his country and we are deeply indebted to him for it.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I associate myself with those words. We hate to see Senator FORD go.

I ask unanimous consent, after I make a short statement, that my colleague from Texas may follow me because he picks up on the same idea. I have to assume the Chair.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BURNS. I thank the Chair and I thank my colleague on the other side.

EDUCATION

Mr. BURNS. Mr. President, as we started to hear this debate this morning, and talking about different ways of accomplishing things here on a nonpartisan basis, it started off a little on the partisan side. Education is very dear to the hearts of all of us because all of us, probably, have had a connection with kids and so have been involved in education. I still have one going to school. But to hear the other side talk, we have done nothing about that.

You know, we have increased the funds for special education since the Republicans took over in 1994.

We passed education savings accounts that would empower parents to make choices for their own children with regard to books and computers and this type stuff. That was a bad idea to the President. He vetoed it. I guess he wants to empower bureaucracy rather than empower parents.

We passed the opportunity scholarships, a highly popular program here in Washington, DC, that would allow parents more choice of where to send their kids to school. That was vetoed.

We passed a $2.74 billion education bill for classrooms, and we guaranteed that 95 percent of it would get to kids. That met with stiff opposition from the President.

Encouraging States to implement teacher testing and merit pay, what is wrong with that? That got vetoed by the President.

Strengthening safe schools, the antigun program—that was vetoed.

Tax relief to employers who provide workers education assistance, folks we are retraining in this rapidly changing world of technology? Vetoed by the President.

I have to look and say all at once: 2 plus 2 is not making 5, when we start talking about education and who wants to do what for whom.

I just noticed here, earlier this year my good friend from Massachusetts said we have "a relationship with Federal, State, and local community levels in terms of education; it is a partnership." Tell me how good this partnership is. The Federal Government only provides 7 percent of the money but 50 percent of the paperwork. That should not surprise you a lot if you have been around government at any time.

In 1969, our expenditure was $68 billion; in 1996, it was $564 billion; and yet even by their own admission, education continues to struggle and go down. That is the point I wanted to make here. I would say whenever we start looking at education, the answer lies in the realization that you cannot kill or do away with an idea. Ideas rule the world. The only way you get rid of a bad idea is with a better one. I think we have come up with some awfully good ideas.

I yield to my friend from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to give our colleague who has to preside an opportunity to speak first. I thank him for arranging for me to be recognized.

SENATOR WENDELL FORD

Mr. GRAMM. Mr. President, I am sorry our colleague from Kentucky has left the floor. I would like to add my voice to those who thanked him for his service. In an era where there are so many cellophane politicians, when there are so many people in public life who talk like newscasters but you can never quite tell what they are talking about when they get through speaking, I think WENDELL FORD has been a welcome relief from that. He is a politician who has texture. When he speaks you may think he is wrong—which I often do—but you never question the fact that he is sincere, and when he speaks you know what he is talking about. I find the longer I serve in this great Senate, the more respect I have for people who stand for something and who speak up for it and who say what they think.

EDUCATION AND THE BUDGET DEBATE

Mr. GRAMM. Mr. President, I wanted, today, to come over and talk about education. I have come back to town to help in some of these negotiations to try to complete the session, but upon hearing Senator KENNEDY this morning, I felt compelled to come over and speak. I have several ideas I want to talk about. I would like to first talk about why we are talking about education. Here we are, 2 days before the session ends. In fact, as of last Friday, in the budget negotiations, no one at the White House had brought up education at all. Why suddenly do we have the focus on education?

I would like to explain why this focus has come about and what I think it is trying to hide. I would like to talk about Senator KENNEDY's education proposals. I would like to talk about the budget debate we have before us. I would like to talk about the failure of our current system. And then I would like to talk about how we ought to change it. That is an awful lot of subjects, but having listened to Senator KENNEDY, I feel compelled to speak a little on this subject.

I would say this is a subject I know something about. I taught for 12 years at Texas A&M prior to coming to Congress. In fact, I often say that I taught economics for 12 years at Texas A&M and I have been teaching it in Washington, now, for 20 years. You will not be surprised to hear me say my students at Texas A&M were a lot smarter than the students I have now. And, also, they were a lot more interested in learning. I say that partially in jest.

So when I talk about education, it is something I know something about, because I have had the great experience of people calling me "Teacher." I don't know of any title—maybe "Rabbi," maybe "Preacher," maybe "Mr. President"—but there are not many titles that are more important than being called "Teacher."

First of all, I want to remind everybody, we were busy negotiating on the budget all last week and up through Friday nobody raised the education issue. And why should they? The President, in his fiscal year 1999 education appropriation, requested $32 billion. In the spending bill that we currently have pending in the Senate, we provide $32 billion. So it was not surprising that after a week's negotiation in trying to come together on this budget, there had been relatively little discussion about education, because the President had proposed $32 billion of spending, we had provided $32 billion, and while I am going to talk a little bit about the differences of how we provide it, the basic point was, this was not a budget issue.

But over the weekend, in his radio show, and then as his representatives appeared on television on Sunday, suddenly the administration has opened a massive new education front. They are saying this Congress has not done enough for education, they are unhappy about what the Congress has done in education, and they want more. Why is this happening? Sadly, I am here to tell you that it is a smokescreen to cover up a robbery. There is a robbery underway on Capitol Hill right now. The working men and women of America are in danger of having $25 billion stolen from them this year and in the last week of Congress.

I have to say, in a city which is marked by cynicism, it is one of the most cynical acts that I have ever observed. I want to be especially critical of the President of the United States on this issue, something I have not made a habit of doing.

The President, in his State of the Union Address—the Presiding Officer was there, and I am sure if the American people remember anything any political figure has said about anything other than scandal this year, they will remember that the President, in his State of the Union Address—I ask unanimous consent for 25 additional minutes.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. DORGAN. Reserving the right to object, the Senator from Illinois is waiting to speak. I, by consent, am waiting to speak as well. That brings it to 30 minutes the total requested by the Senator from Texas?

Mr. GRAMM. Excuse me, I didn't hear, Mr. President.

Mr. DORGAN. Will that bring to 30 minutes the time requested by the Senator from Texas?

Mr. GRAMM. I didn't request any time. I don't know where the 5 minutes came from.

Mr. DORGAN. I thought I heard the Senator request 25 additional minutes.

Mr. GRAMM. I was told by the Chair there was 5 additional minutes. I don't know if the world comes to an end—

Mr. DORGAN. I have no objection. I thought he asked for 25 additional minutes. I have no objection to 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Going back to my robbery occurring on Capitol Hill, the reason it seems to me we are suddenly discussing something that was not an issue all last week is because there is a real issue now that the White House doesn't want to talk about, and that real issue is that we are in the process of seeing a demand from the White House that the Congress spend $25 billion that was never in the President's budget.

Many of you will remember in the State of the Union Address when the President stood up and said, "Save Social Security first; save every penny of the surplus; don't spend any of it; don't give any of it back in tax cuts; save Social Security first." Quite frankly, Mr. President, I thought it was a good idea.

I have opposed efforts by some in my own party to go ahead and cut taxes now rather than waiting until next year when we can fix Social Security, I believe, permanently and then debate a tax cut. But what happened is that in January, February, March and all through the spring, the President said, don't increase spending and don't cut taxes. Then suddenly during the summer, his message started to change, which was the first giveaway. The message suddenly became: Don't cut taxes, and he stopped talking about spending.

Now the President is demanding in the final days of this session that we spend an additional $20 billion to $25 billion, every penny of which would come out of the surplus, and every penny of which would come out of Social Security. So a President who threatened to veto a tax cut that would have taken $6.6 billion away from the surplus is now demanding that Congress, as a price to be able to finish business and adjourn, spend an additional $25 billion.

We had a surplus for the first time since 1969 as of October 1. Today is October 12, and so far, if the President's requests are met, we are spending an additional $2 billion a day. In other words, this is going to be the shortest recorded surplus in American history, and I am concerned about it.

Let me talk a little bit about education, since the President has raised the subject. First of all, in Senator KENNEDY's remarks today, we heard the same old song that people have sung in Washington since 1960. That basic siren song is: If we just had a little more money, we could make it work; that the only thing wrong with education in America is we don't have enough money, and if we spent more money and we let Washington tell you how to spend it, everything would be great.

Let me just review a few facts and figures in response to Senator KENNEDY.

First of all, in 1969, we spent $68.5 billion on education in America. Today, we are spending $564.2 billion on public education, K through 12.

What has happened during that period? As spending has grown almost 1,000 percent, SAT scores have stagnated, reading scores have declined and American students have moved from the top of the list in math and science to either the bottom or near the bottom in both math and science. Today, American students on international tests rank last in physics; they rank next to last in mathematics.

When you look at those scores you say, "Well, if we just had more money, we could change that." But I remind my colleagues, we have increased spending during the period where these scores have plummeted from $68.5 billion to $564.2 billion.

One of our problems is we spend the money so inefficiently. Listen to these numbers: For every dollar we spend on education in Washington, DC, 15 cents never gets out of Washington; 15 cents stays here in our massive Federal bureaucracy; 48 cents ends up going to bureaucrats between here and the classroom; and 37 cents out of every dollar we spend in the name of education in Washington, DC, actually gets to the classroom for actual instruction, providing facilities, or providing that teacher in that classroom.

No wonder that we rank last in physics and next to last in mathematics when our current program, which Senator KENNEDY helped build and which he loves, gets 37 cents out of every dollar we spend in Washington into the classroom.

We are hearing today that what we really need to do is we need to do something about class size.

First of all, I think it is obvious to anybody that you would rather your child be in a small class than a big class. But if you can see this chart, what has happened since 1960 is that class sizes have gone down dramatically.

The pupil-teacher ratio for public K through 12 education was 25.8 to 1 in 1960 when SAT scores were close to their maximum they ever achieved. In 1996, there was 17.1 to 1 or, in other words, a 51-percent decrease compared to today s level.

I think lowering the class size is a wonderful thing, but I simply point out that contrary to all the rhetoric about how perfect the world would be if it were lowered, we have lowered it by 51 percent in the last 36 years, and the net result has been a dramatic decline.

Is the Senator telling me that my 25 minutes is up?

The PRESIDING OFFICER. Five minutes.

Mr. GRAMM. I asked for 25 minutes.

The PRESIDING OFFICER. Under the previous order, it was limited to 5 minutes.

Mr. GRAMM. I ask unanimous consent that I may have an additional 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRAMM. Mr. President, my point is that while declining pupil-teacher ratio is a wonderful thing, and we would all like to have our own children given the maximum instruction in the most intense way, the plain truth is that in the last 36 years, we have had a dramatic decline in the ratio of pupils to teacher while results have declined.

This gets me to what the real debate is on education. Obviously, the real debate is not money. The President requested $32 billion; the Senate bill provides $32 billion. The debate is about who is going to spend the money. Republicans have proposed something that sounds revolutionary in Washington, but in America it sounds eminently reasonable; and that is, except for that money which is targeted to things like special education, we want to give the bulk of the money directly to school systems so that local teachers, local administrators and local school boards can set priorities for using money, so that if in my hometown of College Station we think the answer is a lower pupil-teacher ratio, we can use the money for that purpose; if we think the answer is something else, we can use it for that purpose.

Another thing we are hearing about is building schools. I know our dear colleague who is presiding said that a bad idea never dies, that you can't kill an idea with facts. And I understand this will not kill that idea. We will be talking about it for the next 10 years. But I want to point out something which shows, I think clearly, why the Federal Government should not be setting policy where we have Members of the Senate voting for education policy in schools we have never put our foot in, children we have never personally met, families where we do not know their situation.

What I have here is the population of enrollment in K through 12. I do not want to draw on this chart which I got from somebody else, but I want you to look right here where we are in 1998. We have just come off a very rapid increase in students, but we are now in a period where the population of students in K through 12 is flattening out.

Doesn't it strike you as interesting that we are talking about the Federal Government mandating that local communities spend more of our money and theirs on schools at the very time where it is clear that in the past 10 years our problem has been school construction, but as we look at the future it is obvious that the population of students is beginning to flatten out? That is typical of the Federal Government. That is what happens when you have people in Washington setting education policy for students in College Station—when only two Members of the Senate have ever been in a school in College Station, and they are the two Senators from Texas.

What is the difference between what the President wants to do and what the Congress wants to do? The biggest difference is, the Congress wants to spend the same $32 billion but let local school boards, local parents, local teachers decide—do they want to build more schools, do they want to do something about the pupil-teacher ratio, do they want to buy computers. We want them to decide.

Finally, let me put this chart up here and just remind anyone who is interested in this debate that this Congress has been very active on education matters, that, first of all, we have the $32 billion appropriation bill—the same amount the President asked for; it is just spent differently. More of it is spent locally and not in Washington. We happen to believe that is better. The President thinks it is not better.

But rather than debating us on the issue—because I am sure someone at the White House has done a poll or focus group and they have discovered what we know, and that is, parents in College Station think they know a little bit more about their children's needs than we know in Washington—so rather than debate those, the President is now saying that we are short-changing education.

The truth is, we have provided every penny the President asked for, roughly $32 billion—both the request and appropriation—it is just that we are letting local school boards and local teachers spend it. The President would spend it here in Washington.

But finally, before my time runs out again, I remind my colleagues that we have done quite a bit on education in this Congress. First of all, we passed a bill that provided education savings accounts which let parents set aside up to $2,000 a year which they could use for tutors, they could use to send their children to summer school enrichment programs, they could use for after-school programs; and, yes, if they chose to send their children to parochial or private schools, they could do it. And what happened? Vetoed by the President. It did not represent the teachers union agenda and so the President vetoed it.

We provided literacy funding. The President vetoed it.

We had a merit pay system for teachers. Can you imagine paying good teachers better than we pay bad teachers? Can you imagine having a system where you would actually pay a teacher more if they did a better job of teaching? Well, we could imagine it, but the President and the teachers union could not imagine it, nor could they tolerate it, so the President vetoed it.

We provided a school choice system for low-income families so that working families in cities like Washington could do what President Clinton did, and that is, they could choose to send their children to private schools if they chose to. But the President vetoed it.

We provided tax relief for parents whose kids used a State prepaid tuition plan. This is one of the most exciting new developments around the country where if you want your child to go to Texas A&M—that is your dream—you have to do two things: One, you set up a program and you pay in advance and pay off the tuition, and, obviously, you get a big discount if you start when your child is 6 months old or before they are born; and the second thing they have to do is get in. But we had a system to make it easier for working parents who had the big dream to realize it. The President vetoed it.

We had a system for tax relief for employer-provided education assistance. Employers all over the country are saying, "Our kids do not have the skills we need." So we had a better idea in Congress. We said, OK, if you want to send your employees back to school, to junior college or technical school, or to the University of Missouri, or anywhere, you can do it on a tax-free basis because you are investing in the future of America. And guess what? The President vetoed it.

And finally, our major initiative of this Congress—for the first time since I have been in Congress, we have been successful in doing something that I came to Congress to try to do, and that is, to get the Federal Government out of the business of dictating education policy to local school boards. We, for the first time ever, passed a provision that would allow local school boards to take the money and spend it as they believed to be in the interest of their children.

Maybe people in Washington know better about what children should do and take; but it is interesting, when you ask them, "Well, if you know so much about kids in the elementary school at College Hills in College Station in the first grade class, tell us their names," they don't know them. But they think they know an awful lot about what should be done.

We believe that local people should set priorities. We passed a bill to do that. The President threatened to veto it.

So my final message is, Mr. President, first of all, your administration did not even raise education until Friday. We have been negotiating for a week. This is a ruse to cover up an effort by this administration to bust its own budget and to spend Social Security money. That is what this is about.

Secondly, the President proposed $32 billion for educational appropriations. We have provided $32 billion for education, but we have provided it so that local school districts make more decisions and Washington makes fewer.

So if the President wants to debate, let's debate about the real issue. The real issue is not how much money is spent, it is who is doing the spending.

I thank the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I correct in assuming I am recognized under the previous unanimous consent order?

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

THE BUDGET AND PRIORITIES

Mr. DORGAN. Mr. President, I listened with interest to the Senator from Texas. He is always interesting in his presentations. During my presentation, I will take issue with a number of the comments he has made.

At the start, I want to indicate it is not, in my judgment, the case that this issue of education has just recently been raised in recent days. The last few days, certainly, have included a lot of references to education by the President and by others, but going back to January and February of this year, the President and Members of Congress on this side of the aisle were pushing very hard for education changes that we think would strengthen the school systems and strengthen opportunity for education for all children in this country.

I want to speak more generally, first, and then I will address a couple of those issues. I am enormously disappointed that we come to the middle of October in this session of Congress, the 105th Congress, and find that at the end of this long, arduous Congress, we have half a dozen, maybe a dozen people somewhere in a room—Lord only knows where the room is—negotiating a third to half of the Federal budget in appropriations bills that the Congress didn't get completed.

First of all, in this year, the Congress passed no budget. It is the first time, as I understand it, since 1974—no budget. The requirement is that the Congress shall pass a budget by April 15. This Congress didn't pass a budget. This Congress, by its inaction, said, no, we don't think there ought to be a budget. That is No. 1.

No. 2, because the Congress didn't even bother to pass a budget, it didn't

pass a good number of its appropriations bills. So we came to the end of the fiscal year, months after when the appropriations bills should have been completed, many months after the budget should have been passed, and the Congress had to pass a continuing resolution to keep the government operating. Then we have this closed-door bunch of folks in a room making deals on how to resolve these final issues.

During this Congress, at a time when no budget was enacted and a good many appropriations bills were not completed, the Congress said no to campaign finance reform, not once, not twice, a good number of times. No, we don't want to do campaign finance reform. They said, no, we don't want to do HMO or a Patients' Bill of Rights reforming the managed care system and providing certain rights to patients in this country. They said no to tobacco reform, don't want to do that; no to the education proposals offered in the President's budget calling for reduction in class size.

Incidentally, I take issue with the charts used moments ago, and I guess most parents who have kids in school will take issue with that chart, suggesting somehow that classroom sizes are decreasing rather than increasing. I think most parents understand that is not the case in their schools. It is not unusual for kids to be going to school with 22, 24, 28, 30 children in their class. The question is, Does that make a difference? Does it make a difference for a teacher when there are 15 in the class versus 30 in the class? Does it make a difference in terms of the personal attention a teacher can devote to children with 30 kids in a class versus 15 to 18? The answer is, of course.

This Congress, in passing no budget and missing most of its appropriations bill, said no to campaign finance reform, no to tobacco, no to Patients' Bill of Rights, no to the education proposal offered by the President on school construction and reduction in class size.

In the old western movies you will recall the folks that rode themselves into a box canyon, took their hat off and scratched their heads wondering why they were being attacked on all sides. Because they road into a boxed canyon is why they are under attack. That is exactly what happened in this Congress.

Is it surprising that a Congress that doesn't pass a budget and doesn't finish its appropriations bills finds itself today, on Monday, October 12, in a situation where we are scrambling, trying to figure out who is doing what with whom, to determine what kind of spending we have in dozens and dozens and dozens of areas? Does it surprise anybody we have this kind of a mess at the end of this session? I don't think so.

The previous speaker just spoke of a robbery. He used the term "robbery" to describe the amount of money that some are proposing to be offered to deal with certain education issues. I personally think it is a significant and exciting and wonderful investment in the young children of our country to invest in education. That is not a robbery. That is a remarkably effective investment for this country.

Investment in health care is not a robbery. That is a remarkable investment for the people of this country.

How about for family farmers? Part of this debate is what we do for family farmers in the middle of a farm crisis. No one should think that would be a robbery, to take some funds during the middle of a farm crisis and say to family farmers when prices collapse and you are down and out, we want to give you a helping hand to help you up and help get you through this tough time. That is the issue here. The issue is what are our priorities?

Let me give an example of a robbery. Yes, there are robberies taking place. I understand there is a tax extender bill that some in Congress are trying to slip in, another $500 million little tax incentive for some of the biggest economic interests to move their jobs overseas, make it a little sweeter deal. We have a perverse incentive in our Tax Code to say if you want to move American jobs overseas, we will pay you for it, we will give you a tax break. Just take those good old American jobs, shut your plants, move them overseas, and we will give you a tax break. Talk about perversity. We have people working to try to juice that up, increase the tax break. That is a robbery. It robs America of jobs it needs, it robs us of the revenue we ought to have to invest in kids and invest in health care.

The point is, priorities. What are our priorities? What do we think is important? At the start of this century, if you lived in America you were expected to live an average of 48 years of age. Almost 100 years have elapsed and now if you live in this country you are expected, perhaps, to live to be 78. Forty-eight to 78—30 years added to the lifespan of the average American. Is that success? Yes, I think so. You could solve all the Social Security problems and all the Medicare problems, all the financing of those issues could be solved if you simply take the life expectancy back to the 1940s or the 1920s or the 1900s. However, for a range of reasons, life expectancy has increased dramatically in our country in one century.

We have invested an enormous amount in health care research, National Institutes of Health. I am one, and some of my colleagues have joined me, who wants to increase the investment in health research. We know 50 years ago if someone had a bad heart, bad knee, bad hip or cataracts, they wouldn't be able to see, they wouldn't be able to walk, and they would probably die after a heart attack. Now they have knee surgery, get a new hip, get their heart muscle and arteries unplugged, have cataract surgery, and they come to a meeting in that small town and feel like a million dollars. All of that is possible because of research, an expenditure in health care in this country. It is remarkable. It has been remarkably effective. The same is true with education.

My colleague from Illinois is going to follow me on the floor. He will remember—and I have told my colleagues this on previous occasions—he will remember Claude Pepper, who served with us in the U.S. House. The first time I went to Claude Pepper's office, I saw two pictures behind his chair. One was Orville and Wilbur Wright making the first airplane flight; it was autographed to Claude Pepper. Orville autographed the picture before he died. And then a photograph of Neil Armstrong standing on the moon, and that photograph was autographed to Congressman Pepper.

I thought, what is the interval between leaving the ground to fly, and flying to the moon? What is that interval? It is the most remarkable investment in human potential and in education compared to anywhere else on Earth. All of the kids that went to our school, that became the best scientists, the best engineers, the best at whatever they could be the best at, and we discovered we could develop the technology, through research, to learn how to fly, learn how to fly all the way to the moon. And standing on everyone's shoulders with accomplishment after accomplishment, we have now understood that virtually anything is possible. That comes from massive investment in education. That is what the interval in the two pictures told me—that investing in America's children in education has paid dividends far beyond our wildest imagination.

That is why I come here today.

Let me make one additional point with respect to family farmers. I have talked about investment in health care and education. Investment in America's family farmers is also one of the best investments our country has ever made. We have the best food in the world for the lowest percent of disposable income anywhere on the Earth. Who produces that food? A lot of families living out there in the country, by themselves, taking risks that almost no one else takes—the risk that they might lose everything they have, this spring, this summer, this fall if a seed doesn't grow, or if a seed grows and is destroyed by nature, or if it grows and is not destroyed and they harvest it and take it to the elevator and it is worth nothing. These family farmers just inherit, by the nature of what they do, the most significant risk you can imagine.

That is why this country, for 60 or 70 years, has said we want to try to help farmers when we have these price depressions, we want to build a bridge to help them over the price valleys. That is what this fight has been about in recent days here in Congress. That is what the President's veto is about—about trying to get this country to say, during a time of severe crisis in family farming, during a time of abject price collapse, where the price of wheat has gone down 60 percent in 2 years—our farmers in North Dakota have lost 98 percent of their income in 1 year alone. Ask yourself, in any city, on any block, any occupation, what would happen to you if you lost 98 percent of your income? Would you be in a severe crisis? Despite that, what do we do about that? Can we extend a helping hand? Can we say, during these tough times, that we want to help you over this valley because we want you in our future?

Family farmers matter to this country. If we lose family farmers, we will have lost something about ourselves that is very important—broad-based economic ownership, with families living on the land and producing America's foodstuffs. That is what the fight is about. I am not saying one side is all right and the other side is all wrong. But I am saying to those who say that farmers aren't worth it at this point, just let them float in some mythical free market, that we just don't have the money, or those who perhaps would say if you use the money to save family farmers, it is "robbery"—I don't understand that.

This, after all, is about priorities. What are our priorities? What is important to us? A hundred years from now, everybody in this room will likely be dead. The only way anybody might determine about our value system as a people is to look at how we chose to spend our resources. What did we think was important? Education? Family farmers? Did we think it was important to deal with health care? What were our priorities?

President Clinton, at the start of this year, asked for the education priorities dealing with school construction and class size. He asked, at the start of this year, to deal with health care issues—Medicare, managed care, and the Patients' Bill of Rights. He asked, at the start of this year, for a tobacco reform bill. He asked, at the start of this year, for campaign finance reform.

Sadly, we now come to the 12th hour and we have a bunch of folks sitting in a room somewhere trying to negotiate probably a third of the Federal budget, or a third of the Federal spending, by themselves. I just think that is a terrible way for Congress to conduct its affairs. My hope is that when all of these fights are done and the dust has settled, we will have achieved a result that says the priorities for us at this point are to try to save family farmers during a time of crisis, the priorities for us are to invest in our kids and our schools, and the priorities for us are to decide that, in the future, we ought to do our work in Congress the way the law describes. Let's pass a budget, pass some bills, do the regular order, and not end up another session the way this session appears to be ending.

Mr. President, I know that the Senator from Illinois is waiting to speak. Let me also say, as I conclude, that the Senator from Illinois has been very active on the issue of tobacco legislation, as well as education issues. I think he has been a remarkably effective addition to the U.S. Senate. It has been my pleasure to serve with him in the 105th Congress.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent to address the Senate for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 105TH CONGRESS

Mr. DURBIN. Mr. President, let me say at the outset to my friend from North Dakota, whom I served with in the House of Representatives, he has been not only our floor manager of debate during the course of this 105th Congress, but he has also been an active leader for his State. The leadership he showed along with Senator CONRAD, as well as Senators DASCHLE and JOHNSON of South Dakota, during the crisis that faced their States earlier when they dealt with floods and fires—it seems like all the furies at once—was the type of leadership that is extraordinary, and I thank him for that.

I know we are going to have even more discussion in the days ahead about the current agricultural crisis in his State. I see his colleague, Senator CONRAD, on the floor and I know that they are going to carefully monitor the debate going on now about an omnibus spending bill to try to do their best to help struggling farmers in their State—and, I add, in my State of Illinois, which has its own share of difficulties.

I have brought to the floor here a volume, which those of us in the Senate know very well, and perhaps those in the gallery may recognize, and those at home may find new. It is "The History of the U.S. Senate" compiled by one of our colleagues here, Senator ROBERT BYRD. He is the preeminent Senate historian. He has written this history to try to capture what the Senate means and what it has meant to the United States. I have seen it several times, and I have read portions of it. I am determined that I am going to finish it from cover to cover soon. I looked through it to try to remember if there was another Senate that you could point to that was parallel to what we are seeing here today.

This is the conclusion of my first 2 years in the U.S. Senate, representing my home State of Illinois. Prior to that, I served for 14 years in the House of Representatives. I am no stranger to Capitol Hill, but I am a newcomer to this body. I am surprised that I stand here today on October 12, some 12 days into the new fiscal year, and say that we are still here. We were supposed to be gone, supposed to have finished our work and gone home. Unfortunately, we have not.

As the Senator from North Dakota indicated, there is a great deal still being debated. The size and scope of this debate is mind-boggling—that we would be talking at this moment about still having unresolved questions concerning about a third to a half of the Federal budget that we appropriate.

How can we be in on October 12 still talking about these things? It is because several things have occurred, which are not historic and not in a positive way. This Congress, this House and this Senate, under Republican leadership, failed to pass a budget resolution for the first time in 24 years. So what? Well, the budget resolution is supposed to be the game plan—not the President's game plan, but Congress' game plan—of how we will spend money and reach certain budgetary goals, as well as policy goals.

I can recall, in the 16 years I have been on the Hill, that there were long and arduous and heated debates about our goals. We would get them out of the way and pass the budget resolution, usually around the date it was due, which is April 15. Does that date ring a bell with people in the gallery? We all meet our obligation to pay our taxes on April 15. Congress was supposed to meet its obligation to pass a budget resolution by April 15, but it failed. It has now failed for almost 6 months.

A great deal of blame has been assigned to the President for this mess that we are in today in the 105th Congress. But any honest appraisal suggests that the President had nothing to do with the budget resolution. That was Congress' responsibility. The President doesn't even sign it. It is a resolution, not a law. The House passes it, the Senate passes another, they come to conference and agree, and then set out to spend the money. And they never could agree. The Republican House and the Republican Senate could not reach an agreement between them, and here we are today. That is unfortunate. Eight to ten of our appropriations bills have not been passed.

We are still working on theories and concepts when we should be wrapping things up and going home. We are going to pass stopgap spending measures to try to keep the Government

going while we reach an agreement that should have started back on April 15.

I would like to address a couple of specific issues which this 105th Congress has failed to address as well, not just the budget but other issues equally important.

Earlier this afternoon, Senator KENNEDY of Massachusetts spoke to education issues, as did Senator GRAMM of Texas, and, to no one's surprise, there is a big difference of opinion about what we should do, if anything, about education. I, frankly, think that we have a responsibility at the Federal level. Certainly, the vast resources invested in education come from State and local sources, but we invest some 6 to 7 percent at the Federal level for programs like title I. If your child is falling behind in the classroom, specialized tutoring is available through that Federal program and programs that are designed for disabled children. If you have a child who has a learning disability, a physical disability, some mental handicap, they may have a chance to come to a regular school and a classroom because of the Federal program. Vocational education, a critically important element, is one that I think we all understand is important for a lot of students who will never need to get a college degree but need a good job.

Federal expenditures—college loans, I wouldn't be standing here today without one. Frankly, I think that it is a good investment for all Americans. Yet, there are those who question whether or not there should even be a Department of Education.

In the senate debate in Illinois, the Republican candidate has said that he can't find the word "education" in the Constitution. He uses that for an argument that perhaps the Federal Government shouldn't be involved in it. I see it differently. I think the preamble to the Constitution about promoting the general welfare of America necessarily includes looking at education.

Think about the turn of the last century, from the 19th century to the 20th. And think about this for a moment. Between 1890 and 1910, in that 20-year period of time, on average in America we built one new high school every day for 20 years. What was going on? Was it a building by a Federal program? No. But it was a decision by States and localities that they were going to democratize education. So at the turn of the century, 10 percent of kids graduated from high school. By the 1930s, it was 30 percent. And now it is up over 90 percent. We have democratized education. What do we have to show for it?

Think about the comments of the Senator from North Dakota. Think about the dramatic progress we have made. Think about Orville and Wilbur Wright, and Neil Armstrong, to the return of JOHN GLENN from space. Incidentally, this is his desk right here—a man who serves in the Senate now, and on October 29 he will be launched into space again. We are all so excited about that prospect. But the fact that there is a space program and that we have come so far has a lot to do with education.

What will we do in the next century in terms of our investment in education? Will we step back and hope things will work out for the best, or will we show initiative?

President Clinton in his State of the Union Address in January of this year suggested an initiative that I think is a sensible one—100,000 new teachers. Can it make a difference? You bet it can. And 100,000 new cops across America has made a difference in communities from Cairo to Chicago in my home State of Illinois. And 100,000 new teachers would mean reducing class size until we can say that in K through 3, your child in the classroom will have no more than 17 classmates in the room. Ask any schoolteacher what the difference is between having 18 first graders and 30 first graders. It is dramatic.

A teacher spoke the other day here in the Capitol and said, "There are days in my classroom of 30 kids when I don't get a chance to speak to each individual child in the course of the day." She says, "I go home at night saddened because I have never really believed that you can educate a child unless you can connect personally."

President Clinton says 100,000 new teachers. The Republicans in the Senate and the House have not honored that. Now it is a subject of debate.

The President suggested in his State of the Union Address reducing class sizes for the lower grades. I honestly believe that if we want to graduate quality high school graduates, quality college graduates, you have to start at the beginning—childhood development, K through 3, the basics, reading and writing and spelling so that kids get a good start.

That is the President's program. That is one of the things we are debating. It is one of the things that has been seriously overlooked by this Congress. In fact, the Republicans in Congress have cut the title I program, specialized tutoring, for kids who might fall back a grade. They have cut teacher training at a time when our teachers should, frankly, be getting more skills instead of fewer. They have cut the summer jobs program for kids.

I can tell you a lot of kids don't have a chance to work during the summer. They not only don't make a few bucks and don't have a work experience, but they are tempted to do the wrong thing instead of the right thing. And they have cut technology grants to students and schools that need them so they can bring in the right technology. That is one of the things this 105th Congress has failed to do.

They talk about crumbling schools. One of the earlier speakers said it is really not a problem that we ought to worry about.

Take a look at this chart. K through 12 enrollment is at an all-time high, and is continuing to rise over the next 10 years. Where are these kids going to go to school? Where are their classrooms? Unfortunately, a lot of the classrooms that currently exist are deficient.

This year K through 12 enrollment reached an all-time high, and continues to rise for the next 7 years. We need 6,000 new public schools by 2006 just to maintain the current class size. Due to overcrowding in schools, they are using trailers for classrooms, undermining discipline and increasing student morale.

What about those existing classrooms and these crumbling schools? On this particular issue, I salute my colleague, Senator CAROL MOSELEY-BRAUN of Illinois, who has really taken the national initiative on this.

Look at the state of current schools in America. Fourteen million children learn in substandard schools. Seven million children attend schools with asbestos, lead paint and radon in the ceilings or the walls. Twelve million children go to school under leaky roofs. One-third attend classrooms without enough panel outlets and electric wiring for computers. If we do nothing about this, the burden will shift considerably to the property taxpayers across America.

But if we have a Federal initiative, as the President suggested, to build and repair 5,000 schools, it is going to help the kids prepare for our clear needs with more enrollment and to reduce the burden on local property taxpayers.

Let me mention a few other issues that have failed in this Congress. One of the current questions that is asked of most pollsters in almost every poll is, Does this candidate really care about you? It is an open-ended question. It is an invitation for the person who is being asked the question to really say, "Well, I don't know if Senator so-and-so really cares about me. I would say no." Or yes, whatever it might be. I think the appropriate question for the 105th Congress is, Did the 105th Congress really care about you as Americans and American families? When it came to education, the cutbacks that I have talked about clearly are not responsive to the needs of many families trying to raise their children.

In the area of managed care reform, so that we would change health insurance to give doctors more say in treating us and our children, and those we love, so that hospitals would be able to make the right decisions for us medically rather than an insurance company, this Congress, this 105th Congress with the Republican leadership,

failed to pass a Patients' Bill of Rights and managed care reform. For those families worried about quality health care, I am not certain that we have demonstrated that this Congress and this leadership in Congress cares about us.

An issue near and dear to me is the question of tobacco. I started this fight about 12 years ago when I banned smoking on airplanes, joining Frank LAUTENBERG of New Jersey in that effort. We had a chance this year, a historic opportunity because of the initiative of State attorneys general, to bring the tobacco companies and have them face their responsibility to the American people. We failed. We failed because 14 Republican Senators voted in an effort to stop us from having that happen.

That is a sad commentary, because while we languish in this body and cannot face our responsibilities to these tobacco companies, they continue to market and sell their products to our children. I have never in my life met a parent who has said to me, "I have great news. My daughter came home last night and she started smoking." I have never met that parent. Maybe some day I will. Maybe some of the Senators in this body have met those parents. I have not.

As we have been unable to address this issue about tobacco companies, the number of American kids taking up smoking has risen 73 percent in the last 8 years. More than 1.2 million start smoking every day—kids under the age of 18—and are likely to be addicted, and one-third of them are likely to die because they did it. The rate of smoking—becoming smokers—is increasing. And this Senate turned its back and refused to take action to hold the tobacco companies accountable in their merchandising, their retailing and sales to kids—another failure of the 105th Congress.

Another one clearly is in the area of campaign finance reform. I mentioned managed care reform. Some insurance companies that don't provide good care didn't want to see managed care reform; they succeeded in the Senate. Certainly the tobacco companies didn't want to see us change the way that they sell their product, and they succeeded. Now take a look at the contributions in this campaign, find out which candidates receive the most money from just those two groups, for example, and you will find the same Senators who voted to kill the tobacco bill, voted to kill the Patients' Bill of Rights, will be the ones receiving the money.

We have tried on a bipartisan basis to pass campaign finance reform. This 105th Congress has failed. Nothing on education, nothing on managed care reform, nothing on tobacco reform, nothing on campaign finance reform, and no budget resolution, no effort to preserve Social Security or Medicare over the long term, no expenditures on behalf of the things that are critical for us.

This Congress has stepped away from its responsibilities. Some have called it the worst Congress that has ever served in this building. I am not certain I would go that far, although I searched Senator BYRD's history of the Senate to find a more ineffectual Senate, and I can't find one. But I will keep looking.

Another area where this Congress failed is when it comes to sensible gun control. Let's face it; the gun lobby holds sway in the Senate. Take a look at the rollcalls. Efforts that we have had by Senators BOXER and KOHL to require people to keep a trigger lock on their guns so that they are safely stored away from children failed on this floor. A bill which I introduced which held the owners of guns responsible to safely store their guns away from children was defeated.

I am not arguing about your right to own a gun here, but I say if you own one, for goodness sakes, store it safely away from the child. The kids who are showing up in these schools and opening fire on their classmates and teachers are kids who have brought guns from home, guns that didn't have a trigger lock, guns that weren't locked away, guns that became instruments of death in the hand of a child. When a 4-year old can reach into a grandmother's purse, pull out a loaded handgun and shoot another 4-year-old, as happened last year in America, it raises a serious question about whether that gun owner has accepted her responsibility to store that gun safely.

That radical notion of holding gun owners responsible for storing their guns safely is the law in 15 States and was defeated soundly in this Chamber because the gun lobby didn't want it. And the Brady law, which has stopped literally hundreds of thousands of convicted felons, people with a history of serious mental illness and the like, from buying guns expired, and as it expires the waiting period of 3 to 5 days to check on the background is going to go away in many States.

This Senate and this House of Representatives failed to respond. Does this Senate, does this House care about families across America? When you look at the litany here, frankly, there is not much to point to.

Some have suggested it is not an ineffectual Senate or Congress; it is a retrograde Congress—one that is moving back, and I think that is true. We have now reached that pinnacle where we are moving toward a real balanced budget, and having reached that pinnacle many in leadership on the Republican side can't think of a reason why they are here. And failing that, they have failed the American people time and again on education, on health care and protecting our children.

I hope that in the closing hours, in some room here in the Capitol where the negotiators are sitting together trying to work out their differences, they will at least listen carefully to the administration and to the Democratic side. We do need to do something about education before we leave, something about 100,000 teachers across America and smaller classroom sizes. I hope we will have more money for title I, more money for summer jobs, more money for teachers and technology grants.

It is not likely we are going to have a Patients' Bill of Rights. It is not likely we are going to have a tobacco bill. We are certainly not going to have campaign finance reform. But in 3 weeks the voters of this country get a chance to go to the polls. They get to look forward and decide what their vision of the 106th Congress will be—more of the same or new and different leadership.

I hope that they agree, as I do, there is an important national agenda, an agenda which should be served whether the leadership is Democrat or Republican. This 105th Congress will put its tail between its legs and go whimpering out of town, back to their States, back to their districts to carry on the campaigns, but we squandered an opportunity here, an opportunity to lead, an opportunity to show that we truly care about families across America.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. NICKLES. Mr. President, will the Senator yield to me for 30 seconds?

Mr. ASHCROFT. Without losing the floor, I would be happy to yield to the majority whip.

CHANGE OF VOTE

Mr. NICKLES. Mr. President, on rollcall No. 295, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. NICKLES. I thank my colleague from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, I thank the Chair.

THE WORST OF ALL OUTCOMES: CLINTON SPENDS THE SOCIAL SECURITY SURPLUS

Mr. ASHCROFT. Mr. President, I believe these are times in which anyone, anywhere would wish to live—times of boundless opportunity when distant

horizons are brought near. Since the second year of Ronald Reagan's first term, America has seen her GDP climb every year but one. Our unemployment rate stands at a historic low. Poverty has dropped by more than ten percent. And our budget is in surplus for the first time in a generation.

For the first time since 1969, the federal government will run a surplus estimated to be $70 billion. It is a surplus that could allow us to do so much for so many. We could free American families from a debilitating tax burden or help the forgotten middle class keep more of what they earn with tax relief.

Beyond meaningful tax relief, the surplus offers another great potential—ensuring the long-term solvency of the Social Security Trust Fund.

The surplus is an opportunity for us to honor our commitment to the men who scaled the cliffs at Normandy and the mothers who sent their son to defend America's freedom halfway around the world. It is, Mr. President, a once in a lifetime chance for us to make the paper IOUs in the Social Security Trust Fund real—to pay our debts and keep our word. We can use the surplus to do this.

Unfortunately, the President and his apologists on Capitol Hill have a different plan. It is an attack given to platitudes rather than principle, an approach long on meaningless rhetoric and short on meaningful reform. It is a plan that calls for a return to the profligate spending of yesterday at the cost of a brighter tomorrow.

As I suggested last Monday on the Senate floor, since late September the President has submitted a series of requests to fund new "emergency" spending initiatives. And, because current law subjects discretionary spending to annual caps through FY 2002, this so-called "emergency" spending would increase the discretionary spending caps, decrease the budget surplus, and take money from the Social Security Trust Fund.

And what are the President's "emergency" spending requests? What are the eleventh hour developments that have made Social Security's solvency a low priority instead of a high one? The President is proposing that the equivalent of at least 24% of this year's surplus—$14.4 billion to date—be spent on a Bosnia deployment that is now four years old, government computer repairs, increased embassy security and a variety of other initiatives.

Now, I will be the first to concede that many of the President's requests constitute real and important funding issues. But emergencies? Mr. President, the lives of our elderly are too important for half-truths and doublespeak.

Social Security should not be betrayed by emergencies that are conjured up and have been anticipated for quite some time. The definition of an emergency is not something that we have known about for 4 years or 2 years or something that we are really trying to get money to spend in the last fiscal year and not in this one.

In his January 1998 State of the Union address, President Clinton made the following statement: "What should we do with this projected surplus? I have a simple four word answer: Save Social Security first. . . . I propose that we reserve 100 percent of the surplus—that's every penny of any surplus—for Social Security."

And just 10 days ago, the President repeated his demand again (October 2, 1998). "I made it clear and I want to make it clear again. . . . We simply have to set aside every penny of it [the budget surplus], . . . to save Social Security first."

Unfortunately, Mr. President, you can't have it both ways. We can't hide from the truth. More to the point, you can't save Social Security by wasting the surplus on mislabeled emergencies or more big spending. Even as I speak here, the President and his aides are working to see that our seniors' Social Security checks either are shipped overseas or squandered on more bureaucrats in Washington, DC, with more spending programs proposed for money to be shipped overseas or bigger bureaucracies here in the nation's capital. Tragically it is what Chairman Greenspan warned us about just weeks ago. Referring to whether the surplus should be spent, saved, or returned to the taxpayers, Greenspan said, ". . . I am also, however, aware of the pressures that will exist to spend it, and that in my judgment would be the worst of all outcomes."

Greenspan says, ". . . the pressures . . . to spend it . . . would be the worst of all outcomes."

Mr. President, if increased spending is labeled as "emergency" as an accounting gimmick in order to authorize us to spend the surplus, I will not be a party to it. Labeling the taxpayers' money "emergency" doesn't make it any less wasteful. Just because it is called emergency doesn't prevent it from adding government and adding bureaucracy. As was said by another, putting a sign on a pig and calling it a dog doesn't make the pig any less of a pig. And there is going to be plenty of pork in this "Mother of All Pigs," that is coming to the Senate for its approval by way of a proposal for spending.

For example, the Wall Street Journal this morning reported that Labor, Health and Human Services and Education account for the single largest part of the Omnibus bill in terms of add-ons sought by the Administration. The President wants a total of $1.6 billion, including almost $1.2 billion for his "class size" initiative and another $182 million for a child care block grant.

Mr. President, all of this $1.6 billion dollars in increased education spending is paid for from the Social Security Trust Fund. The President has not offered one dime in spending cuts to pay for his "priorities," which he has labeled as "emergencies."

What is equally as shocking is that the underlying Labor/HHS/Education appropriations bill is estimated to be about $4 billion over its spending allocation even before accounting for the extra money sought by the Administration this weekend.

The President should explain to the voters that his pledge to "save every penny of any surplus" was untrue. His promise to "save Social Security first" was just a slogan—offered during his State of the Union with a wink and a nod, and broken days later.

Only days after first promising to save the surplus, he submitted a budget to Congress calling for $150 billion in additional spending. And in the entire legislative year since the President made his pledge, he has done nothing to fix the Social Security problem—and far too much to fix the blame. He has wasted this entire year, just as he is proposing to waste our senior's Social Security checks on overseas deployments and projects.

If the President truly meant what he said about Social Security, he would propose real fixes instead of empty promises. If the President truly meant what he said about saving the surplus, he would not be trying to spend the taxpayer's money under the camouflage of bogus "emergencies."

This whole notion of false "emergency" spending is a dangerous ploy. It puts the President of the United States in the position of the little boy who cried wolf. If and when we face a true emergency, we will be forced to fund it through this discredited process. And when that time comes, we will regret having engaged in this sleight-of-hand, in this legerdemain, in this charade. Words should have real meaning, Mr. President, and actions should have consequences. Two lessons we would do well to remember.

Mr. President, the normal appropriations process is what every American family does when they plan their spending for the upcoming week, or month, or year. Families measure how much they can afford to spend, and where they have to cut back. In some years, when there is an illness or a recession, they may have emergency savings that they use. Perhaps it is a rare occurrence—one they take only in extraordinary circumstances.

But think what would happen if families used their savings for non-emergencies—for a new car or a new dress. They would quickly find themselves unprepared for true emergencies.

The Federal Government should treat its emergencies the same way families do. Necessary but non-emergency problems should be addressed by achieving savings in lower priority federal spending programs.

The President's commitment to send troops to Bosnia was made 4 years ago. It is time to account for that in the normal appropriations process. The Year 2000 problem is a very real threat. But it is also a problem that we have known about for some period of time—since we do have calendars here in Washington. No, instead of anticipating the need and including it in the regular budget process, the President has chosen to ask for this kind of additional funding in the "emergency" category. The President is crying wolf and I only hope the Republican Congress has the good sense say, "No."

Mr. President, I don't agree always with what I read in the newspaper, but here's an editorial with which I do agree. "Republicans rightly point out," the Christian Science Monitor recently noted, "that there's a double standard here: It's OK for Clinton and the Democrats to propose spending $20 billion of the coming surplus for 'emergencies,' but when the GOP suggests returning some of it to taxpayers, that's a 'threat' to Social Security." (Christian Science Monitor editorial, September 28, 1998)

The Christian Science Monitor had it right in that editorial. And the double standard is even worse than the Monitor suggests. For when this $20 billion is spent, the money will be gone. Whereas if we had given it back to the taxpayer, at least we would have provided some measure of relief from the highest tax burden in the history of this republic—a helping hand to the forgotten middle class.

And that is the key question here. Who owns the surplus? President Clinton and the Democrat Party see the surplus as own private slush funds—money he can hoard with the shield of false promises, but spends whenever it suits them.

I would argue that the American people own the surplus. And it is time to give it back. As we have learned with all too great a frequency in recent years, if we leave the surplus in Washington, supposedly far-sighted bureaucrats will find a way to spend it.

For there is no end to the good Washington believes it can do with their brains and our money. This town specializes in spending.

I believe it is time for us to make the American people aware of the deceitful and dishonorable efforts to use the budget surplus on mislabeled emergencies and increased spending. I came to Washington 4 years ago to cut taxes and decrease government interference in our lives.

I also made a sacred commitment that I would protect and defend the Social Security Trust Fund. I intend, therefore, to oppose any effort to spend the elderly's Social Security checks on overseas deployments or the bureaucracy in Washington, D.C., and mislabeling those things as "emergencies" will not change my commitment or determination.

Mr. President, I yield the floor.

PRESIDING OFFICER (Mr. GRAMS). The Senator from North Dakota.

THE BUDGET

Mr. CONRAD. Mr. President, I rise today to respond to some of the things I have heard over the weekend, and now some of the things I have heard on the floor of the Senate. I heard over the weekend on some of the talk shows that the reason the Congress does not have its work done for the year, the new fiscal year which began October 1, is that it is the President's fault.

We have no budget resolution passed by this Congress. For the first time in 24 years, there has been a failure to pass a budget resolution. That budget resolution was due by April 15. The President plays no role in a budget resolution; that is the responsibility of this Congress. In fact, the President does not even have a chance to sign or veto a budget resolution. It is purely the responsibility of this Senate and the House of Representatives, and these bodies have failed in their responsibility, and they have failed for the first time in 24 years.

It is easy to blame the President for everything in this town, but when it comes to a failure to pass a budget resolution, it is not the President's fault. The fault lies right here, right here in the U.S. Senate and at the other end of this building in the House of Representatives. It was our responsibility to pass a budget resolution. It was our obligation to pass a budget resolution. That is the blueprint that is to be followed in order to coordinate all of the appropriations bills.

Little wonder, now that the new fiscal year has already started. The new fiscal year started October 1, and we don't have our work done. In fact, most of the appropriations bills have not been passed. That is not Bill Clinton's failure. That is not President Clinton's failure. That is the failure of this Congress.

I also heard colleagues assert that the President is proposing spending the surplus. That is not true. The President is not proposing spending the surplus. The new spending on education the President is proposing is to be fully offset. He is not spending the surplus on education. That additional spending will be paid for by reducing other spending. That is the President's proposal, not spending the surplus.

Then we hear assertions that the President is proposing spending the money on emergencies. Anybody who understands the budget rules of Congress understands that we set the budget rules and we say that if the money is for an emergency, it does not count in the normal budget process. Those are our rules. Now I hear my colleagues standing up and blaming the President. It is not his fault that we have said if it is emergency spending it is outside the normal budget process.

What are these emergencies? I heard a lot of talk moments ago that this is for bureaucrats in Washington. Wait a minute. What are the emergencies that have been designated by our own rules as emergencies?

First of all, money for the farm crisis that is occurring across America. If that is not an emergency, I don't know what is. We have had a series of natural disasters all across America, and much of this spending that the President has proposed as emergency spending is to respond to natural emergencies, natural disasters. That is exactly what we should do.

It doesn't stop there, because we also have a crisis in agriculture because of collapsed income. In my State, from 1996 to 1997, farm income dropped 98 percent. If that is not a disaster, I don't know what is. I will just say to my colleagues who say the disasters in agriculture are not emergencies, go ask your farmers and see what they say. I tell you, the farmers in my State say it is an emergency. They understand they have had extraordinary natural disasters, from the incredible drought in Texas and Oklahoma to the extraordinary wet conditions in my part of the country that has led to an outbreak of a disease called scab that has decimated the crops. That, according to our own budget rules, is an emergency, and when you have an emergency, it is outside the normal budget process. The President is not advocating spending the Social Security surplus, he is following the rules that we have laid down.

What are some of the other emergencies the President has asked us to respond to? One is the terrorist bombing of our Embassies in Africa. The terrorist bombings, are those emergencies? Without question, they are. That is according to our own budget rules. That is not money for bureaucrats in Washington, that is money to respond to a terrorist attack on the United States of America, and, according to our own budget rules, rules that we set down, that is an emergency.

The President is not advocating spending the Social Security surplus. Interestingly enough, it is our colleagues on the other side of the aisle who proposed dipping into the surplus. It is our colleagues on the other side of the aisle who proposed a massive tax-cut scheme that would be spending the Social Security surplus, because every penny—every penny—of their tax cut schemes would have come out of the Social Security surplus—every penny. That is raiding Social Security, and the President stood up and said, "No, you don't touch that money." He said to them not to touch it. He is not touching it. He is following the rules

that we have laid down. Those are the facts.

When I look at the history of how we have gotten to where we are, I also have to respond to what I heard from some of my colleagues, that the Republican majority here is responsible for the first budget surplus in 30 years. Mr. President, here is the record on our budget deficits. This shows we have balance for the first time in 30 years. These are the deficits. We can see the deficits rose until, in the last administration, they reached $290 billion. In every year of this administration, the deficits have come down, so that this year we are showing a $70 billion surplus.

When our colleagues say that it is the Republicans who brought us to a balanced budget, I have to say, wait a minute, let's check the record, let's check the facts. In 1993, the President put before Congress a plan to dramatically reduce the deficit. The Democrats supported that plan. Not a single Republican voted for it—not one. Not one Republican in the House, not one Republican here in the Senate, voted for that deficit reduction plan—not one. Yet, that plan is the only plan in the 12 years I have been in the Senate that has worked. It was a 5-year plan to reduce the deficit. It cut spending and it raised taxes on the wealthiest 1.5 percent of the people in this country.

The Republicans say, yes, but we had a bipartisan budget deal in 1997 that we played a role in, and it is the reason that we balanced the budget. I will give my friends on the other side of the aisle some of the credit. It is true, they participated, along with Democrats. That was a bipartisan plan in 1997. This chart shows how much of the deficit reduction has come from the 1993 plan and how much of it has come from the 1997 plan. What you can see is that nearly 90 percent of the deficit reduction that has occurred flowed from the 1993 plan that not one single Republican voted for—not one. This part of the job has been done by the 1997 plan that was a bipartisan agreement. It accounts for about 15 percent of the total. Those are the facts.

When I hear my friends on the other side of the aisle beating their chests saying they are the ones who balanced the budget, wait just a minute; the action that has done most of the heavy lifting was done by Democrats, and Democrats alone, in 1993. In 1997, the balanced budget plan, the thing that finished the job off, was done by both parties walking hand in hand. Those are the facts.

The result of the economic policy that was put in place by the 1993 5-year plan has been one of the most successful economic plans ever adopted by this country. Again, not a single Republican voted for it. In fact, they said at the time—I remember so well because I am on the Budget Committee and I am on the Finance Committee, and I remember our friends across the aisle saying, "If you pass this plan, it is not going to reduce the deficit, it is going to increase the deficit."

Our friends across the aisle said, "It won't reduce inflation, it will increase inflation."

Our friends across the aisle said, "If you pass this plan, it is going to crater the economy."

Well, they were wrong on each and every count.

Here is what has happened in terms of economic growth: During the Clinton administration, it has average 3.9 percent; during the Bush administration, 1.3 percent; the Reagan administration, 3 percent; the Carter administration, 3.6 percent; the Ford administration, 0.9 percent; the Nixon administration, 3.6 percent; the Johnson administration, 5.3 percent.

In other words, this plan, this economic plan, has the highest level of private sector economic growth of any administration since the Johnson administration. Of course, in the Johnson administration the economy was fueled by a war. This is a peacetime expansion of an economy that has been remarkable and the strongest of any administration since the Johnson administration.

On job growth, the economic plan that we put in place in 1993 has produced now over 17 million jobs—17 million jobs. The Reagan administration, that administration, generated 8.7 million.

On real business productive investment, we see the highest rate of growth of any administration in decades—see real business productive investment growing at a rate of nearly 13 percent a year.

That is the economic record. You can see we passed the economic plan in 1993; it has been virtually straight up since that time.

That is not the only measure of economic performance. If we look at the inflation rate, we see that the inflation rate is now at its lowest in 33 years—lowest rate of inflation in 33 years.

If we look at unemployment, we see that unemployment is at the lowest in 28 years—again, largely a result of the economic plan put in place in 1993, without a single vote from the other side—not one. That economic plan has produced truly remarkable results.

If we look at interest rates, we can see, going back to 1977, we now have the lowest interest rates—measured as yield on a 30-year Treasury bond—the lowest in 20 years; under 5 percent for the first time in 20 years.

If we look at other measures of the economic plan that was put in place by this President, and with votes of the Democratic Party, we can see the effect on welfare caseloads. Welfare caseloads now—the percentage on welfare—are the lowest in 29 years. That was the successful welfare reform plan that we passed. And we passed a crime bill that has produced 5 years in a row of declining violent crime in America. That is the record.

When our friends want to talk about the record, they do not ever want to compare the results in the last three administrations. So maybe we should remind them of what the results were in the last three administrations.

This shows the Reagan administration record on deficits. When he came in, the deficit was about $80 billion. When he left, it was up to $150 billion. In between, it had gone up to over $200 billion a year in deficits.

When the Bush administration came in, the deficit was running about $150 billion a year. Before he was done, it was $290 billion a year.

Then the Clinton administration came in, and we passed the 1993 plan—again, without one single Republican vote—and each and every year of that 5-year plan the deficit has come down, until this year we have the first balanced budget in 30 years.

When I say it is the first balanced budget, let me just say that in Washington what they call a balanced budget is not what we call a balanced budget anywhere else in America. In Washington, they call a balanced budget one that counts the Social Security surpluses.

Here is another way of looking at what has happened. It shows that we have made dramatic progress. It also shows that we have not yet truly balanced the budget. The blue line shows what they talk about in Washington when they talk about the budget. But it is important to understand that it includes all of the revenue of the Federal Government and all of the expenditures of the Federal Government.

That would make some sense if some of the revenues were not coming from trust funds. And if you exclude the Social Security trust fund, what you see is much the same pattern; that is, a dramatic reduction in the deficits. But what you also find is that if you exclude the Social Security surplus, we still have a deficit this year of $35 billion.

Now, it is true, that is down dramatically from the last year of the Bush administration, when the true deficit, instead of being $290 billion, was really $341 billion if you excluded the Social Security surplus. But if you exclude the Social Security surplus this year, instead of having a $70 billion surplus, you have a $35 billion deficit.

Some economists say, well, you really ought to put it all together. Well, maybe that is why they are economists. I can tell you this: If you were running a company and you tried to take the retirement funds of your employees and throw those into the pot, you would be in big trouble because that is a violation of the law. It is

called fraud. You cannot take the retirement funds of your employees, throw those into the pot, and say you have balanced your operating budget. But that is what is done with the Federal budget.

So I think it is important to understand that while it is true we have made enormous progress, we have come down dramatically with respect to the deficit, and in fact in terms of a unified budget, we are balanced for the first time in 30 years. If we did not count the Social Security surplus, we would still have a deficit of $35 billion.

Mr. President, let me just conclude by saying, the fact is, when I hear our colleagues say, No. 1, President Clinton is responsible for our failure to have a budget resolution, that is absolutely untrue. There is not a Member of this body who does not understand the President does not have one thing to do with the budget resolution. The budget resolution is just that—it is a resolution by both Houses of Congress. It is our responsibility to pass a budget resolution, and this Congress has failed.

For the first time in 24 years, there is no budget resolution. The Senate passed a budget resolution, but the Republicans in the House and the Republicans in the Senate could never agree, and so for months the appropriations bills were delayed. So here we are at the start of a new fiscal year—no budget, no appropriations bills, and we are sitting here wondering how it is going to end.

I think we know how it is going to end, Mr. President. It is going to end with a huge continuing resolution. There will probably be thousands of pages. There will probably be seven or eight appropriations bills all glommed into one package. And remember what Ronald Reagan said about that kind of process? He said in his 1987 State of the Union Address:

> . . . the budget process is a sorry spectacle. The missing of deadlines and the nightmare of monstrous continuing resolutions packing hundreds of billions of dollars of spending into one bill must be stopped.

Our Republican friends in the House and the Senate must not have been listening to former President Reagan, because they have not stopped it. In fact, what they have done is, every year for the last 3 years that they have been in control of this Senate and the House, that is exactly what they have done. They failed to do their work on time and, instead, they have handed us a stack of thousands of pages in a continuing resolution, with no time to review.

And Ronald Reagan said the very next year, on February 18 of 1988, in his budget message:

> As I have stressed on numerous occasions, the current budget process is clearly unworkable and desperately needs a drastic overhaul. Last year, as in the year before, the Congress did not complete action on a budget until well past the beginning of the fiscal year. The Congress missed every deadline it had set for itself just 9 months earlier.

He could have been referring to this Congress, because this Congress has failed to meet every single budget deadline. In fact, for the first time in 24 years, they have produced no budget. Our colleague across the aisle was talking about how a family operates. I do not know many families that never bother to come up with a budget, but that is what has happened here under the leadership of our friends on the other side of the aisle. For the first time in 24 years, there is no budget—none. That is their failure, not the President's failure. It is their failure.

President Reagan went on to say that Congress missed every deadline. He said, "In the end, the Congress passed a year-long 1,057-page omnibus" appropriations bill with an accompanying conference report of over 1,000 pages and a reconciliation bill over 1,100 pages long.

President Reagan said:

> Members of Congress had only 3 hours to consider all three items. Congress should not pass another massive continuing resolution [President Reagan said in 1988.]

He went on to say:

> —and as I said in the State of the Union Address, if they do, I will not sign it.

What a difference 10 years makes. Ten years ago, a Republican President said there should not be passed another continuing resolution. But here we are with a Republican-controlled Congress who has failed to even write a budget. That is the most basic responsibility of any Congress, to write a budget. This Congress, under Republican control, has failed in that most basic duty for the first time in 24 years. Why? Because the Republicans in the U.S. Senate who did pass a budget resolution—we passed it on a bipartisan basis—could never get together with the Republicans in the House of Representatives. So what we have is a colossal failure.

I don't know how else to say it, but this is mismanagement on a grand scale. I hope people will remember what the record is because it does make a difference. America has enjoyed unprecedented prosperity in the last 5 years, prosperity that I believe came in significant part because of an economic plan that was passed in 1993, the 5-year budget plan, that actually did the job. It reduced the budget each and every year. I will show the comparison chart again.

It reduced the budget each and every year since it was passed. When President Bush left town, he had a $290 billion deficit. If you weren't counting Social Security surpluses, it was even worse than that; it was $341 billion. Let's talk on a unified basis for a moment because that is how the press always reports it. Clinton came in and each and every year after we passed that 1993 plan, the deficit has come down. So now we have a $70 billion surplus.

Again, I am quick to say I don't consider this a surplus because it is counting the Social Security surplus. Nonetheless, dramatic progress has been made in reducing the deficit. That has given rise to the strongest economy in almost anyone's memory.

Our friends on the other side who are now in control are responsible for a dramatic failure, a failure to write a budget for the United States of America. The result is, here we are, the new fiscal year has started, we have no budget, half the appropriations bills aren't done, they will all be rolled into a stack of paper that will be probably 3 feet high, it will be slammed on our desks, and we will be told to vote on it 3 hours later.

What a way to govern. What a way to manage.

It is not Bill Clinton's fault that no budget was written here. A budget resolution is the distinct responsibility of the Congress. This Congress has failed.

I yield the floor.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

The PRESIDING OFFICER. Under the previous order, H.J. Res 134, received today from the House, is deemed as passed.

The joint resolution (H.J. Res. 134) was considered read the third time and passed.

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JEFFORDS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOUSE-PASSAGE OF THE DIGITAL MILLENNIUM COPYRIGHT ACT CONFERENCE REPORT

Mr. HATCH. Mr. President, last Thursday the Senate approved, by unanimous consent, the conference report on H.R. 2281, the Digital Millennium Copyright Act (DMCA). I rise today to laud the House's action in adding its vote of approval to that of the Senate. The bill now goes to the President, who I expect will move swiftly to sign this important legislation into law.

As I said last Thursday, and on many other occasions, I believe the DMCA is one of the most important pieces of legislation to be considered by Congress this year, even in recent memory. It has been over twenty years since such significant copyright law reforms have been enacted in this country, and

this vote has come at a critical juncture in our nation's transition to a "digital millennium."

But all this would not have happened without the critical support of countless parties who have come together in negotiations to refine the bill and reach a compromise that best promotes American interests at home and abroad. Once again, I want to thank all of the conferees who participated in bringing this legislation to closure.

In particular, I want to recognize the efforts of my counterparts on the Senate side, Senator LEAHY and Senator THURMOND. I also want to convey my appreciation for the dedicated efforts of Congressman HENRY HYDE, the distinguished Chairman of the House Judiciary Committee, Congressman JOHN CONYERS, the distinguished Ranking Member of the House Judiciary Committee, and Congressman HOWARD COBLE, the distinguished Chairman of the House Subcommittee on Courts and Intellectual Property. They have been committed to seeing this bill through from the start and have been wholly undeterred by other pressing business that has occupied the House Judiciary Committee in recent weeks. I also want to recognize Congressman TOM BLILEY, the distinguished Chairman of the Commerce Committee, for his willingness to consider the Senate's views objectively and dispassionately.

In addition, I want to acknowledge once again the hard work done by staff. In particular I want to recognize the efforts of Manus Cooney, Edward Damich, and Troy Dow of my staff, whose long hours and tireless efforts were key to guiding this bill through every stage of the legislative process. Bruce Cohen, Beryl Howell, and Marla Grossman, of Senator LEAHY's staff, likewise provided invaluable assistance on all levels. I also want to thank Garry Malphrus of Senator THURMOND's staff for his work in conference, as well as Paul Clement and Bartlett Cleland of Senator ASHCROFT's staff for their invaluable assistance in reaching key compromises in the Judiciary Committee. Finally, I want to thank the House staff, including Mitch Glazier, Debra Laman, Robert Raben, David Lehman, Bari Schwartz, Justin Lilley, Andrew Levin, Mike O'Rielly, and Whitney Fox.

I also want to recognize the long hours and persistent dedication of the many people who engaged in hard-fought, but ultimately fruitful, private-sector negotiations on related issues. Many of the compromises embodied in this legislation would not have been reached without the support of these parties. For example, we would not be lauding the passage of a bill today at all were it not for the willingness of the copyright industries, Internet service providers, educators, libraries, and others in the fair use community to come together at the direction and under the supervision of the Judiciary Committee to arrive at a consensus position regarding standards for limiting the copyright infringement liability of Internet service providers.

Many other negotiations were conducted and agreements reached that made this legislation possible, including agreements between copyright owners and manufacturers of the consumer electronics devices that make the use of their works by the public possible. One such agreement reflects the understanding of the motion picture industry and consumer electronics manufacturers regarding standards for the incorporation of certain copyright protection technologies in analog videocassette recorders. This agreement was the basis for the new section 1201(k) of the Copyright Act, as added by the DMCA, which requires analog videocassette recorders to accommodate specific copy control technologies in wide use in the market today. I have received a letter from Mr. William A. Krepick, President and Chief Operating Officer of Macrovision Corporation—the producer of such copy protection technology—assuring me of his commitment to adhere to the spirit of this agreement by making such technology available on reasonable and non-discriminatory terms, which in some circumstances will include royalty-free licenses. I would ask unanimous consent that the text of this letter be incorporated in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HATCH. Mr. President, the DMCA is a remarkable bill that is the result of a remarkable process. By enacting this legislation in a timely fashion, the United States has set the marker for the rest of the world with respect to the implementation of the new WIPO treaties. As a result, the United States can look forward to stronger world-wide protection of our intellectual property and a stronger balance of trade as inbound revenues from foreign uses of our intellectual property continue to increase. I am pleased to have been a part of this great effort, and I look forward to the President's signing of H.R. 2281.

EXHIBIT 1

MACROVISION CORPORATION,
Sunnyvale, CA, October 7, 1998.

Hon. ORRIN HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: I am writing this letter to you in your capacity as Chairman of the Senate-House Conference Committee on the Digital Millennium Copyright Act of 1998. We understand that the Conference Committee is prepared to include in the final legislation to be reported to the Senate and House of Representatives a provision that requires that analog videocassette recorders manufactured and/or sold in the United States must conform to two analog copy control technologies certain aspects of which are proprietary to Macrovision Corporation. As you may know, Macrovision Corporation has been in business for 15 years providing various copy control technologies to help copyright owners protect their valuable intellectual property. We license various technologies to hardware manufacturers, including manufacturers of consumer electronics and various computer-based products, and to Hollywood movie studios and other independent video producers.

We are a small company and have worked very hard over the past two-and-a-half years to demonstrate to the consumer electronics, computer, and motion picture companies and industries that our copy control technologies offer the best solution to digital-to-analog copy protection for the DVD format, as well as in its traditional analog videocassette application. We have worked with the companies and industries to ensure that compatability and effectiveness are assured, and, as a result, our technologies have been required for use to provide protection of the analog outputs of DVD playback devices implementing the two encryption-based copy protection systems now in the market—the Content Scramble System (CSS) and DIVX.

We support the legislative proposals that are being considered by the Conference Committee, in the form of Subsection "k" and its corresponding legislative history as attached to this letter. We also recognize the unique position that such legislation provides to our technology and our company. Accordingly, we are writing to assure you and your colleagues on the Conference Committee that we will not abuse our position in our licenses for the technologies for which responses are being required by this legislation. Specifically, we are willing to assure you and the Committee that any licenses that may be necessary to implement these technologies will be offered on reasonable and non-discriminatory terms, as that phrase is commonly used and understood in industry standards processes. We will modify certain terms and conditions of our baseline analog copy control license agreements—and offer the same modifications to existing licensees—if this legislation is enacted in order to eliminate our contractual requirements that analog videocassette recorders manufactured in or sold in the United States respond to our technologies and that certain display device manufacturers ensure that their products are compatible with our technologies, in the sense of not displaying visible artifacts or distortions in the authorized playback of material protected using our analog copy control technologies. The first of these requirements will now be the subject of the statutory requirement that is the subject of the legislative provision.

The second requirement will now be the subject of an inter-industry forum on compatability issues, that will afford all interested parties an opportunity to work together to resolve such issues as they arise. We hasten to add that we do not expect such problems to arise, since our technologies have been proven to the satisfaction of the manufacturers that they do not cause problems, and we do not expect to make any material modifications to them in the future. Manufacturers already know what the technologies are and can test their products before finalizing their design. We commit to you and your colleagues that any changes that are made to our technologies will be the result of inter and intra industry consensus on the changes before they are made. Nevertheless, in order to reassure everyone involved, we are prepared to cooperate in the

inter-industry forum that is being established. We have been assured that this forum will be established within six months after passage of this legislation and will include equal representation from the consumer electronics, computer, and movie studio industries.

With regard to our licensing terms, we commit to you and your colleagues that we will from the date of enactment adhere to the following points—which are essentially reflective of our current licensing policies. First, as stated above, our proprietary analog copy protection technology will be offered on reasonable and non-discriminatory terms, as that phrase is used in the normal industry parlance. Second, in relation to certain specific circumstances:

(a) Manufacturers of consumer-grade analog VHS and 8mm analog video cassette recorders/camcorders that are required by the legislation to conform to our proprietary analog copy protection technologies (and any new format analog videocassette recorder that is covered by paragraph (1)(A)(v) of the legislation and thereby required to conform to our proprietary analog copy control technologies) will be provided royalty-free licenses for the use of our 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;

(b) In the same circumstances as described in (a), other manufacturers of devices that generate, carry forward, and/or read and respond to the elements of these technologies will be provided with licenses carrying only modest fees (in the current dollar range of $25,000 initial payment and lesser amounts as recurring annual fees);

(c) Manufacturers of other products, including set-top-boxes and other devices that perform similar functions (including integrated devices containing such functionality), will be provided with licenses on reasonable and non-discriminatory terms, including royalty and other considerations.

In the absence of the specific attached legislative and explanatory language, Macrovision would not have made the above referenced commitments regarding our licensing terms and our contract clauses on VCR responsiveness and playability issues. We very much appreciate the work of you and your colleagues in helping to draft and, hopefully, ultimately enact this legislation. We also appreciate and acknowledge the leadership and cooperation of certain companies and individuals in getting this proposal to this point.

I understand that this letter will be incorporated into the official report of the Conference Committee and that the Conferees are relying on our representation herein. If you or other members of the Conference have any questions or need any clarification on any point, please do not hesitate to contact me, or have one of your staff contact me.

Sincerely,

WILLIAM A. KREPICK,
President/COO.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

Mr. HATCH. Mr. President, I am delighted at the recent passage of S. 505, the Sonny Bono Copyright Term Extension Act. The main purpose of the bill is to ensure adequate copyright protection for American works abroad by extending the U.S. term of copyright protection for an additional 20 years. The late Sonny Bono was an avid supporter of the bill, and he fully appreciated what its passage would mean to the American economy. It is therefore an appropriate memorial to this fine American.

20 years ago, Mr. President, Congress fundamentally altered the way in which the U.S. calculates its term of copyright protection by abandoning a fixed-year term of protection and adopting a basic term of protection based on the life of the author. In adopting the life-plus-50 term, Congress cited three primary justifications for the change: (1) the need to conform the U.S. copyright term with the prevailing worldwide standard; (2) the insufficiency of the U.S. copyright term to provide a fair economic return for authors and their dependents; and, (3) the failure of the U.S. copyright term to keep pace with the substantially increased commercial life of copyrighted works resulting from the rapid growth in communications media.

Developments over the past 20 years have led to a widespread reconsideration of the adequacy of the life-plus-50-year term based on these same reasons. Among the main developments is the effect of demographic trends, such as increasing longevity and the trend toward rearing children later in life, on the effectiveness of the life-plus-50 term to provide adequate protection for American creators and their heirs. In addition, unprecedented growth in technology over the last 20 years, including the advent of digital media and the development of the national Information Infrastructure and the Internet, have dramatically enhanced the marketable lives of creative works. Most importantly, though, is the growing international movement towards the adoption the longer term of life-plus-70.

Thirty five years ago, the Permanent Committee of the Berne Union began to reexamine the sufficiency of the life-plus-50-year term. Since then, a growing consensus of the inadequacy of the life-plus-50 term to protect creators in an increasingly competitive global marketplace has lead to actions by several nations to increase the duration of copyright. Of particular importance is the 1993 directive issued by the European Union, which requires its member countries to implement a term of protection equal to the life of the author plus 70 years by July 1, 1995.

According to the Copyright Office, all the states of the European Union have now brought their laws in compliance with the directive. And, as the Register of Copyrights has stated, those countries that are seeking to join the European Union, including Poland, Hungary, Turkey, the Czech Republic, and Bulgaria, are likely, as well, to amend their copyright laws to conform with the life-plus-70 standard.

The reason this is of such importance to the United States is that the EU Directive also mandates the application of what is referred to as "the rule of the shorter term." This rule may also be applied by adherents to the Berne Convention and the Universal Copyright Convention. In short, this rule permits those countries with longer copyright terms to limit protection of foreign works to the shorter term of protection granted in the country of origin. Thus, in those countries that adopt the longer term of life-plus-70, American works will forfeit 20 years of available protection and be protected instead for only the duration of the life-plus-50 term afforded under U.S. law.

Mr. President, as I've said previously, America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to nations of the European Union. In fact, in 1996, the core U.S. copyright industries achieved foreign sales and exports exceeding $60 billion, surpassing, for the first time, every other export sector, including automotive, agriculture and aircraft. And, according to 1996 estimates, copyright industries account for some 5.7 percent of the total gross domestic product. Furthermore, copyright industries are creating American jobs at nearly three times the rate of other industries, with the number of U.S. workers employed by core copyright industries more than doubling between 1977 and 1996. Today, these industries contribute more to the economy and employ more workers than any single manufacturing sector, accounting for over 5 percent of the total U.S. workforce. In fact, in 1996, the total copyright industries employed more workers than the four leading noncopyright manufacturing sectors combined.

Clearly, Mr. President, America stands to lose a significant part of its international trading advantage if our copyright laws do not keep pace with emerging international standards. Given the mandated application of the "rule of the shorter term" under the EU Directive, American works will fall into the public domain 20 years before those of our European trading partners, undercutting our international trading position and depriving copyright owners of two decades of income they might otherwise have. Similar consequences will follow in those nations outside the EU that choose to exercise the "rule of the shorter term" under the Berne Convention and the Universal Copyright Convention.

The public performance of musical works is one of the copyright rights that will be benefited by the 20-year extension. But—ironically—in title II of the bill, Mr. President, we are cutting back on that right by expanding the exemption that currently exists in the Copyright Act for "mom-and-pop" establishments. Because of the public

performance right, businesses that use music to attract customers are required to obtain a license. The licenses can be obtained from the performing rights organizations (PROs), namely, ASCAP, BMI, and SESAC. The PROs, in turn, pay the owners of copyright in the music—music publishers, composers, and/or songwriters—from the proceeds. Because the rates charged by the two biggest PROs, ASCAP and BMI, are monitored by the Rate Court of the U.S. District Court of the Southern District of New York, the rates today amount to a very small amount per annum per business. The rates are even smaller for the kinds of performances covered by title II of the bill—performances of music over television and radio sets that businesses turn on for the benefit of their customers. And, as I said, "mom-and-pop" establishments do not have to pay anything. Nevertheless, some have sought for over 3 years to eliminate the licensing of music that arrives in a business establishment through the reception of radio and TV signals.

I have a stellar record in supporting legislation that benefits small business, but this includes songwriters, who themselves are small businesses. I have yet to discover a reason to eliminate or even reduce the charge for the commercial use of some one else's property. In my view, property is property whether it's dirt or intangible, and I have always been a defender of property rights.

The associations that want to eliminate the public performance right for business establishments have held up passage of copyright term extension for more than three years, although they had no quarrel with copyright term extension on its merits. Since copyright term extension is so important to America, Mr. President, I began a series of negotiations last year to try to resolve the problem. Other negotiations were begun by others, and, in the end, a compromise was worked out. This compromise is included in title II of the bill.

Title II greatly expands the current "mom-and-pop" exemption in the Copyright Act. Indeed, data supplied by the Congressional Research Service reveals that over 65.2% of restaurants will be exempt.

But lest we think that the music licensing issue has been put to bed, I want to sound a note of caution. Despite the months of negotiations that produced title II, an unanticipated problem popped up just as a compromise was reached—the exemption contained in title II applies to radio broadcasts licensed by the FCC and does not cover Internet radio. We did not have time to address this problem, and, frankly, the novel nature of Internet radio precluded a simple solution. This issue concerns me, however, and I will turn to the music licensing question again in the future, if I see that a disparity exists between FCC-licensed radio and Internet radio. I would not want businesses to turn away from new technology because of artificial forces acting on the market. If we do turn to this question, we may discover that it is impossible to integrate Internet radio and TV into the exemption without modifying its scope.

Nevertheless, Mr. President, on balance, S. 505 is a good bill. I'm glad it passed, and I'm glad that a compromise was worked out on music licensing to allow the copyright term to be extended. I thank all who had a hand in the solution.

WIPO COPYRIGHT TREATIES IMPLEMENTATION ACT CONFERENCE REPORT

Mr. GRAMS. I rise in support of the WIPO Copyright Treaties Implementation Act Conference Report adopted by the Senate on October 8, and commend the Senator from Utah for his efforts in crafting legislation that will greatly aid American copyright owners and users in the digital world. This legislation is of great importance to the citizens of Minnesota, including many companies that produce copyrighted materials as well as the hard-working men and women employed by them.

As the Senator form Utah is also aware, however, I have a great interest in Senate action to protect database owners, to continue the availability of quality and reliable products and services for users here and abroad. Earlier this summer, I introduced S. 2291 to provide this protection, and worked to include this language into the WIPO Implementing legislation. I greatly regret this legislation could not be included as part of this Conference Report.

Would the Senator from Utah and his colleagues on the Judiciary Committee agree to take up this issue as a priority item early in the 106th Congress? I believe we need fair and balanced database protection legislation, similar to S.2291.

Mr. HATCH. I thank the Senator from Minnesota for his comments. This will be a top priority for the Committee next year. I intend to hold a hearing on database legislation and move for prompt consideration in the 106th Congress.

Mr. GRAMS. I thank the Senator from Utah and look forward to working with you early next year.

TRIBUTE TO SENATOR DIRK KEMPTHORNE

Mr. DOMENICI. Mr. President, it is with great pride and honor that I rise today to pay tribute to my retiring colleague from Idaho, Senator DIRK KEMPTHORNE. In his six years of service to the United States Senate, he has proven himself to be a very thoughtful and determined leader and I am honored to have the opportunity to rise and speak on his accomplishments.

It was a pleasure to work with Senator KEMPTHORNE as he crafted one of the most important bills we have passed in the United States Senate, the Unfunded Mandates bill. I was particularly pleased that the private sector was included in the assessment of Unfunded mandates and DIRK was generous and extraordinarily helpful to me and my staff throughout the legislative process as we developed and negotiated this legislation. Not only did the junior Senator from Idaho manage two weeks of debate on the Senate floor which sometimes lasted 12 hours a day, but his skillful leadership and influence brought affected parties to the table to negotiate and produce legislation which passed both the House and Senate by overwhelming margins. Clearly, without his strong commitment to American small businesses, this objective would not have been achieved.

In addition to his service on the Small Business Committee and Armed Forces Committee, Senator KEMPTHORNE was given the responsibility of chairing the Drinking Water, Fisheries, and Wildlife subcommittee of the Environment and Public Works Committee. He wrote an update of the Safe Drinking Water Act which won bipartisan praise. He worked many long and arduous hours crafting legislation to reauthorize and reform the Endangered Species Act, an issue extremely important New Mexico and other WesternStates. DIRK's perseverance and hard work was instrumental in laying the groundwork for long overdue reform of this law and I am hopeful that we can be as diligent and compromising as he has been in crafting and passing ESA reform legislation in the future.

The state of Idaho is fortunate to have a statesman of his caliber. During his tenure, he has earned the respect and admiration of his colleagues on both sides of the aisle because of his unique ability to negotiate, compromise, and foster positive working relationships not only with his colleagues, but between federal, state, and local governments. These skills will serve him well as he faces new challenges in the future. Although we will miss his presence in this body, I know that he will continue to be a valuable asset not only to the state of Idaho but to this Nation.

Finally, I understand the challenges and difficulties associated with raising a family while serving in Congress and I respect and admire his decision to do what is right for his family and their future. Nancy and I wish DIRK, Patricia, and their children all the best.

TRIBUTE TO SENATOR JOHN GLENN

Mr. DOMENICI. Mr. President, I would like to pay tribute on my behalf, and on behalf of the people of New Mexico, to a true American patriot, Senator JOHN GLENN. It has indeed been a privilege to serve in this Chamber for 24 years with a man of such honor and distinction.

Although I only served with Senator GLENN on the Senate Governmental Affairs Committee for a brief time, I have been able to witness firsthand JOHN GLENN's legendary fairness and leadership. I doubt there has ever been a Senator who could match his dogged determination. He worked tirelessly for many years to cut government waste and improve the efficiency of government, and I applaud his efforts.

Since his arrival in 1974, JOHN GLENN has championed the cause of space exploration and research, an area of particular interest and importance to my home state of New Mexico. He has long understood, and I strongly concur with him, that the United States has a unique opportunity and obligation to the pursuit of knowledge and exploration of the heavens. Thanks to Senator GLENN's continuing sense of duty and service to his country, we will expand our understanding of space and its effects on the human body.

The success of our space program has enabled our children to dream of different worlds, our scientists to explore the nature of matter and the origins of time, and us to be able to look up into the night sky and to understand what we see. JOHN GLENN played a crucial role in achieving this success. His flight on *Friendship 7* was one of the first indications of the greatness of America's space program. His flight on *Discovery* will be a continuation of the greatness JOHN GLENN helped established—and a confirmation of the contributions senior Americans can, and do, make in our society.

JOHN GLENN's life as a military hero, space pioneer, and statesman is the stuff of legends. Although his time here in the Senate draws to a close, he assures us that the legend will grow when he takes off on the shuttle *Discovery* later this month. It truly has been a pleasure to work with the distinguished Senator from Ohio. Good luck, JOHN GLENN, and God Bless.

TRIBUTE TO SENATOR WENDELL FORD

Mr. DOMENICI. Mr. President, it is with great respect that I rise today to express my gratitude to the distinguished Minority Whip, Senator WENDELL FORD, for his 22 years of service to the United States Senate. I have been here since the beginning of his Senate career and have witnessed his many accomplishments over the years. His tenure has represented a shining example of hard work, honesty, and integrity.

Senator FORD and I served on the Energy and Natural Resources Committee for many years together and shared a mutual interest in energy policy. He has been a strong advocate of the disposal of chemical weapons at the Blue Grass Army Depot in Kentucky and has stood firm in his commitment to exploring safe, affordable, and environmentally sound alternatives to chemical weapons incineration. He understands the threats of nuclear proliferation and we have shared a common desire to ensure proper stewardship of nuclear stockpiles across the globe. I have appreciated his valuable contribution to this mission and will miss his presence on the Energy and Natural Resources Committee.

An accomplished public servant, Senator FORD served his country in World War II, was elected Governor of the Commonwealth of Kentucky, and as a Senator, established himself as a national leader in energy, aviation, and federal-election reform policy. However, he may be best known for his steadfast commitment to serving the people of his beloved home state, Kentucky. He has diligently sought to create opportunities for the people of America and I am confident that upon his return to Kentucky, he will continue to give as generously of himself as he did during his 22 years of service in Congress.

I believe that I speak on behalf of all members of the Senate when I say that WENDELL's leadership, talent, and friendship will be sorely missed. I am grateful that I had the opportunity to work with him and hope that when the time comes for me to leave office, I will be as well respected as Senator WENDELL FORD by my constituency and colleagues on both sides of the aisle.

WENDELL, on behalf of myself and the State of New Mexico, I commend you on job very well done and wish you and Jean continued health and happiness in your retirement.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, in light of the Columbus Day holiday—a day in which we honor Christopher Columbus for discovering a debt-free nation—I am unable to report to Congress our nation's outstanding federal debt from the close of business Friday, October 9, 1998. I do however feel obliged to submit the federal debt from years past.

With no holiday in site for an escalating national debt, I report, Mr. President, that one year ago, October 9, 1997, the federal debt stood at $5,409,087,000,000 (Five trillion, four hundred nine billion, eighty-seven million).

Twenty-five years ago, October 9, 1973, the federal debt stood at $459,857,000,000 (Four hundred fifty-nine billion, eight hundred fifty-seven million).

Mr. President, as we stand in the twilight of budget negotiations for fiscal year 1999, I remind my distinguished colleagues that we must curb the desire to spend, spend, spend. Even with a holiday weekend our federal debt reflects an increase of more than $5 trillion—that is more than 5 million million—during the past 25 years.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, pursuant to Public Law 100–696, announces the appointment of the Senator from North Dakota, Mr. DORGAN, as a member of the United States Capitol Preservation Commission.

Mr. CONRAD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBATE DURING THE FINAL DAYS OF THE 105TH CONGRESS

Mr. GRAMS. Mr. President, I want to talk a little bit about some of the impending debate going on right now to try to close out these final days of this Congress. As you know, most of the talk is centered around the issue of education. While I was sitting here listening, I thought really that most Members of Congress that are up for election were back home campaigning. But I guess they are not, because some have been here this afternoon campaigning on the floor of the Senate. I heard today some of the outlines of what was basically their very liberal agenda, which did not pass some very radical proposals that this Congress did not accept.

They talked about delays and about the lack of work in this session, but they didn't mention that this Congress has required more cloture motions just to try to get issues onto the floor. We have also heard, I think, some real tall tales of revision of the history of budget negotiations, et cetera, talking about how much credit should go to this President for the current economic benefits that we are reaping. But somehow they forget a lot of the work done during the 1980s, like the tax cut, deregulation of many industries, the productivity of workers and companies that have basically produced more revenue for this Government to allow us to balance the budget. It really hasn't been anything that this President has done to balance the budget.

If you talked about this big budget plan offered in 1993—which I am proud

to say not one Republican supported because the centerpiece of that plan was just like every other Democratic proposal over the last 40 years—that was to raise taxes on the American people in order to try to solve what they saw as a crisis or problem, but the real intent was to enlarge and expand the size and scope of Government, to bring more control to Washington. This plan raised $263 billion in new taxes—the largest tax increase in history in this country—which has now taken the average American family to the highest levels of taxation in history, with over 42 percent for the average American going to taxes. That means you work just about as much time to support Government as you are allowed to work to raise your family, to support your family—health care, educational needs, food, clothing, shelter, et cetera.

I have to say that if it was such a great idea to raise taxes and that solves the problems, I don't know why we don't simply say let's raise taxes to 100 percent of what you make so the Government can be real sure that it takes care of every need that you have, and we can be on the floor here bragging next year, or the year after and the year after how great Washington has done.

When you see some of the waste, fraud and abuse in this Government, the bureaucracy—and we can sit here and say that Washington can handle problems better than the American family. Mr. President, that kind of baffles the mind. Some people think raising taxes and sending more money to Washington is a godsend, and it has somehow taken care of all the problems in this country, when I don't think too many people out there would want Washington to be their own financial adviser when they can't even count on Social Security to be there. I wanted to express more concern and basically disappointment over what appears to be an eleventh-hour attempt now by the President to force straitjacket education policy on our Nation's schools and children.

The President brought this up a year ago in his State of the Union Address. There has been no legislation or ideas brought to the floor on increasing the size or putting more teachers into the classroom. Everybody can agree that education is probably one of the most important things that we need in this country. Again, I don't know if people want to give that control over to Washington and have them hiring teachers, telling us who we can hire and fire in the classroom. They would go from there to what the curriculum is going to be. Then they would tell us what to teach the children and what books to read.

When you talk about revision of history and what we have heard here on the budget issues alone, can you imagine what our textbooks are going to be like when we hear some apologizing for Christopher Columbus? Can you imagine the difference in the wealth and lifestyle of this great country? In some of our textbooks, Christopher Columbus is being viewed as somebody who did things wrong. Sure, there were problems back then, and there were new diseases brought to this continent. But to say now that we should be apologizing for what Christopher Columbus did, or maybe apologize for how this country ended World War II—nobody wanted to use the bomb, but to rewrite the stories of the *Enola Gay* and say America was somehow responsible for World War II, we didn't start the war. We had to find a way to end it. It was not a pleasant way to do it, but it did save lives from the day-to-day fighting. There would not have only been thousands more American soldiers who would have died, in addition to the thousands who died in World War II, but thousands more Japanese civilians would have been killed as well.

Mr. President, President Clinton and others in Congress have decided to renew their one-size-fits-all argument that they know how best to spend education dollars for each and every student, in each and every school in the country, from the inner city to rural classrooms.

Education for all is a top priority, as I mentioned. All of us have the top priority of education for our children and grandchildren. That politicians are using it today as a last-ditch political coverup, I believe, is beneath contempt. The central charge being made is that the Republican-led Congress hasn't met the demands for increases in education spending. This simply is not the case.

According to the Senate Budget Committee, in the last three budget cycles during which Republicans have controlled Congress, this Congress has provided $79 billion, or 97 percent of the President's education requests.

In other words, in 5 of the last 6 years, there has been less than a 3-percent difference between the President's request for education outlays and what Congress has provided. And to suggest otherwise is nothing but pure politics.

As we have seen time and time again in Washington, it is very easy to just go out there and try to up the ante. When I say that, what they are trying to do out here is bribe the American people with your money. In other words, they just want to take a little bit more of our money to Washington, raise your taxes, erode your tax bases, take more money away from your tax base to support your own local schools so they can up the ante out here in Washington, because Washington can't give you anything. It can't enrich your school districts until it takes something from you. So it has to take money from you to bring it to Washington and promise you something that they are going to give back, but with a lot of strings—and by the way, a lot less money, because by the time you support the buildings and bureaucracy here in Washington, you are only getting pennies on the dollar back.

Somehow, they promise you something, but they don't tell you who is going to pay for it. Sure, some might be getting more money back than they paid, but most Americans are going to pay more in taxes to get this type of help from Washington. When you give that control to Washington, you as parents lose control at home over what decisions are going to be made, whether it is over teachers, curriculum, et cetera.

So upping the ante here, its easy for somebody to try to outbid the other, saying let's do $3 billion or $5 billion or $7 billion—it is all your money. So it is easy to up the ante so as to be able to complain that Congress isn't spending enough. We have seen this painfully played out, for example, in making emergency moneys available for our Nation's farmers.

One tell-tale sign that the administration's proposals are for "show" only is that they cannot be met without breaking the budget. I heard here a while ago that the spending bidding wars the President is talking about right now is not going to break the budget, that it is all offset. I don't know where it is coming from. I haven't seen the offsets. The only offset I have seen is that it is going to come out of the budget surplus.

Something in the neighborhood of $20 billion of surplus money is already being spent by this administration. He is trying to twist the arms of the Republican Congress to go along with this looming threat of a possible Government shutdown, or saying we don't care about education, or we don't care about the American farmer. But somehow Republicans wanted to give a tax break because some of the surplus money is from larger revenues due to income growth. We say, if we are overbilling the American people, maybe we should give some money back. They say, you can't do that, and they say they think about Social Security first. That tax cut would have been about $7 billion in the year 1999. That was too much money to give $7 billion back, which would amount to basically less than $1 a month per person in this country.

That is a huge tax cut—less than $1 a month—$7 billion? They couldn't do that. But yet $20 billion of that surplus can be spent. And they are saying, "Well, we are not taking this out of the surplus; we are going to offset it." I would like to know where they are offsetting it, and, if they are offsetting it in some programs, I would like to know where those programs are going to be able to get along with less money, after

all of this year trying to work out budgets through our committees. The President knows this.

The only offset proposal has been through increased tobacco taxes. That is what we heard earlier this year. That is how the President was going to pay for 100,000 new teachers. That is how the President was going to pay for rebuilding new schools. And that, by the way, is the prerogative, the responsibility, the opportunity, of the local school boards and school districts. They should be doing this—not the Federal Government, because the Federal Government then has to make money from them to give back to them. But, in the meantime, they lose a lot of control and authority. But when there was no tobacco bill this year—again, this is one of the radical liberal agendas that did not pass this Congress that we have heard complaints about. Again, I am very proud to have voted against that piece of legislation. But there is no money there.

So, if there is no money from the tobacco legislation, now the President is saying we are going to have to dip into something else. But it is going to come out of the surplus, and that is the extra money that you have worked for, which Washington now has and won't give back. Congress has rejected that plan. The President has now proposed an alternative method of financing his proposal.

Another giveaway as to the political nature of this last-minute demagoguing is the plain fact that simply spending more money in Washington for the sake of spending more money does nothing to solve the education problems in this country. I think the President should pay attention to the fact that it is going to take a little more time and a little more effort to solve these problems than he has been willing to devote in the past.

If this is such an important issue, which I think it is, I think we need to have Congress to bring it before our committee. Let's sit down and debate it and lay it all out and see where the advantages are, how much it is going to cost and where the money is going to come from, rather than the President trying to again break arms and jam it into an omnibus budget bill. In fact, spending money blindly may ultimately do more harm than good.

According to a recent article in the Washington Post,

> The nation's largest study examining the use of computers in schools has concluded that the $5 billion being spent each year on educational technology is actually hurting children in many cases because the computers aren't being put to good use.

While I support teaching out kids to use technology, and computers are an important part of this, I do not believe high-tech classrooms are the only priority.

And, while spending great sums of money on technology-education is feel-good politics for those who spend the money, it can come, as we've seen, at the expense of our kids.

Last year, the American Management Association found that two-thirds of managers said new employees had strong computer skills, but that only 29 percent said the employees could write competently.

I am always reminded of a story, because I think it suggests some very serious education problems in this country: A small school district in northern Minnesota was being given an award because their students had ranked among the top in the scores that year. In the test scores out there, their students had ranked among the top. Somebody came up, and while they were going through some of the records, they noticed that this school district had some of the lowest costs per pupil in the State. So the question was asked: "How can you account for having higher test scores when you have had some of the lowest spending per pupil year?" The principal said, "I don't know how to explain it." He said, "All we can basically do is offer our kids the basics."

In other words, they were teaching them to read, to write, and to do arithmetic rather than the "feel good" diversity type programs that we see teachers now hamstrung with today. They can spend less than half of their costs on the basics, because the Government dictates today already preclude them from teaching their kids the basics.

When they talk about money in this country, that we are not spending enough money—we spend more on education; it is only second to health care. About $450 billion a year goes to education. That is more than any country in the world spends per student per year. In fact, if you look at the numbers, the United States spends nearly twice as much per student per year as any country in the world. Yet we rank 14 out of 14 of the industrialized nations in the world in test scores when it comes to math and sciences and the ability to write.

So, if other countries can spend less and get more, where is the problem? The problem isn't the amount of money that we are spending on education, it is how that money is being used. And now, to say if we could only come back and throw some more money at it—I will give you an example. Back in the 1950s, if we adjusted to inflation today, the States were spending an average of about $600 per student per year in education. Today, 1998, we are spending well over $6,000 per student per year—from $600 in 1950 to over $6,000 today.

The District of Columbia spends over $10,000. In Minnesota, the city of Minneapolis spends over $10,000 per student and yet has some of the lowest test scores in the State.

So, again, is it the money? Or is it some of the ways that we are teaching our children, or some of the programs, or the time that our kids are being given to study the basics in order to learn?

I think the ones who really come out on the short end of this are the students. While we are up here debating all of this, saying that we need all this curriculum, that we need all this money, that we need all this stuff, our kids are graduating with some of the lowest test scores around the world, without the ability to compete in the next generation. They are the ones being shortchanged while a lot of this debate is going on here. I think those problems show that our students are not learning the basics despite our spending efforts.

Over the last 30 years, as I have mentioned, we have increasingly spent more of the Nation's money on education. Nominal spending has risen eightfold since 1969.

Furthermore, a recent Wall Street Journal article reports that in the past 45 years the average pupil-teacher ratio in this country has already fallen by 35 percent. In the past 45 years, the student-teacher ratio has fallen 35 percent. Yet, our test scores have fallen with it. The SAT scores have stagnated, and the international tests have put them at the bottom.

In Math and Science General Knowledge tests, United States students ranked 16th out of 21 in science, behind Russia and Slovenia but ahead of Cyprus.

In math, United States students ranked 19th out of 21 countries, behind Russia, Slovenia, Hungary, and Lithuania. America already outspends every other country per child on education, and ranked among the bottom of all.

Clearly, simply spending more money is not the answer to better learning. If it were, we certainly wouldn't have these sorts of test scores to show for it.

The answers to our education problems do not lie in "wired classrooms." No computer can take the place of a good teacher. Instead, I believe that the answers to learning are found in each and every teacher-child relationship, in each and every classroom.

There is no amount of money that can replace a teacher who cares and wants to reach kids, and has the freedom to do so.

This freedom comes with the authority to make decisions based on local needs—not dictates from Washington, not more control from Washington, not more strings attached to the classrooms from Washington. I have continually supported plans which would return money and also return control from Washington to parents, to teachers, and to local school districts. After all, I think they know best how to spend their education dollars.

Plans such as the Education Savings and School Excellence Act would have been an important step toward accomplishing this.

This bipartisan education reform legislation would have allowed low- and middle-income families to open education savings accounts to pay for the particular education needs of their children—from textbooks to tutoring to tuition.

Unfortunately, for families and students, President Clinton vetoed this legislation. There has been an agenda dealing with education in this Congress this year. It has gone nowhere, because the President and those Members on that side of the aisle—the Democrats—have disagreed and have stalled the efforts, or have vetoed it with the President's plan, claiming that it would divert resources from public education. This is false. The Education Savings and School Excellence Act would not have touched 1 cent of Federal spending for education—would not have touched 1 cent of the surplus either. It would have come from parents being able to set aside more of their own money so that they could decide how they wanted to spend it for their children's education—whether they needed additional tutoring, or tuition to go to a private or parochial school, or whatever the parent decided they needed. But they vetoed that plan.

The reason the President vetoed this legislation—and I will be generous with this inference—is because he thinks he knows what is best for each and every student if America.

But I would ask my colleagues to reflect on this for just a moment and to see if they aren't forced to come to the same conclusion: To think that the U.S. Government should impose a rigid generic formula on day-to-day decisions for all students is nothing short of frightening.

So, Mr. President, I thank you very much for the time, and I hope we can work out these questions in the remaining days. Some of the questions now do not relate to the amount of money being spent on education but is being narrowed down to who is spending it, who controls it. I think the Republicans have made it very clear that if the money is to be spent, it should go to local school districts so that the parents and the teachers and local officials can decide how that money should be spent, not Washington. But on the other side, they would rather have the money come here to Washington so they can disperse it, so they can tell parents, teachers, local school districts and local officials how those dollars should be spent. I think Americans would rather have those local options left to themselves because this is incrementalism at its best. If you let Washington get its foot in the door, the camel's nose under the tent, it is only going to be a matter of time before they want more and more control over education in this country.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Vermont is recognized.

EDUCATION IN THE 105TH CONGRESS

Mr. JEFFORDS. Mr. President, over the past several days, the White House has bombarded the airwaves with rhetoric suggesting that congressional Republicans have turned a deaf ear to the needs of our nation's students. Hearing all this, I have to say I feel like I have entered a parallel universe. Less than one week ago, I was standing in that same White House listening to the President laud one of the most significant bipartisan achievements of the 105th Congress—enactment of the Higher Education Amendments of 1998.

Lost in all the pre-election maneuvering is any recognition of the solid record of accomplishment by this Congress on behalf of students from preschool through graduate school. I would like to take a few minutes to review that record.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

One of the first measures considered by the 105th Congress was the Individuals with Disabilities Education Act (IDEA) Amendments of 1997. The development of this legislation involved a level of cooperation which is virtually unprecedented—between Republicans and Democrats, House and Senate, and Congress and the Administration. The leadership demonstrated by Senator LOTT was critical to the success of this effort, as was the many hours of work by my colleagues on the Labor and Human Resources Committee—particularly Senators KENNEDY, COATS, HARKIN, FRIST, DODD, and GREGG.

The result of this bipartisan effort is a law which strengthens our assistance to States for making a free appropriate public education available to children with disabilities. Major principles underlying the reauthorization bill included: placing an emphasis on prevention; basing procedures and paperwork on common sense and accountability for results; developing a coherent policy for dealing with disciplinary actions; and offering local school districts options for fiscal relief.

In addition, we have followed up words with action by providing substantial funding increases for IDEA. I was extremely disappointed that the Administration's fiscal year 1999 budget included no increase for special education funding for children with disabilities from 3 through 21 years of age—not even an adjustment for inflation. Fortunately, due to the prodding of Senator GREGG and others, Congress had increased special education funding by more than 60 percent over the past two years. In fiscal year 1996, we provided about $2.3 billion for IDEA state grants. That figure was increased to $3.1 billion in FY 1997 and increased again to $3.8 billion in FY 1998. We expect to add at least another $500 million this year.

TAXPAYER RELIEF ACT

Bipartisan cooperation also led to the inclusion of a substantial investment in education as part of the Taxpayer Relief Act signed into law last summer. This act contains 11 types of education tax breaks amounting to $40 billion over 5 years—the most significant of which is the HOPE Scholarship credit.

EMERGENCY STUDENT LOAN CONSOLIDATION ACT

Late last year, the President signed into law a measure designed to provide relief to borrowers who were unable to consolidate their student loans due to the suspension of the Direct Loan consolidation loan program. On August 26, 1997, the Department of Education suspended its consolidation loan program in an effort to deal with the backlog of 84,000 applications which had piled up prior to that time.

NATIONAL SCIENCE FOUNDATION

This summer, Congress completed action on the first major reform of the National Science Foundation in a decade. Approved unanimously by both bodies of the Congress, this legislation responds to our Nation's changing research and technology needs and provides $11 billion over three years to ensure our continued world leadership in science and technology. As a result of leadership provided by members of the Senate Labor and Human Resources Committee, particularly Senators KENNEDY, FRIST, DODD, and COLLINS, these funds will be used to support more than 19,000 competitively awarded projects at over 2,000 colleges, universities, elementary schools, and high schools.

Through this authorization, we provided for the greatest investment in basic math, science, and engineering research in our Nation's history. An often overlooked feature of the measure is the dramatic investment being made to develop and strengthen our Nation's human resources.

The reauthorization bill reflects the critical need for greater investment in systemic education reform, professional development, curriculum reform, as well as informal science education. It provides more than $1.2 billion over three years to strengthen our nation's capacity to teach math and science to secondary and elementary students. More than $300 million of these funds will be used to ensure that our Nation's math and science teachers have the knowledge and skills they need to prepare their students. Another $300 million will be used to support model efforts at systemic education reform. An additional $800 million will be used to strengthen the quality and

availability of math, science and engineering education at our nation's colleges and universities.

ADULT EDUCATION AND FAMILY LITERACY

Yet another example of the progress which can be made when partisan differences are set aside is legislation signed into law by the President this August, which supports programs that assist educationally disadvantaged adults in developing basic literacy skills, achieving high school equivalency certification, and learning English. These provisions comprised the education component of comprehensive legislation known as the Workforce Investment Act to which Senators KENNEDY, DEWINE, and WELLSTONE made significant contributions throughout the process.

The Adult Education and Family Literacy Act provides assistance for those adults most in need of acquiring literacy skills. Of the approximately 4 million adults who annually receive services under this program, 75 percent usually come into the program with below 8th grade literacy skills.

This legislation emphasizes the importance of coordinating adult education programs with employment and training activities and family literacy initiatives. It also establishes a comprehensive accountability system to assess the effectiveness of the activities undertaken by States and local communities. The establishment of accountability measures will enable the federal government to optimize its investment in adult education and family literacy activities. This investment stands at $385 million today.

HIGHER EDUCATION ACT

As I mentioned earlier, one of the most significant bipartisan achievements of this Congress is the Higher Education Amendments which were signed into law last week. From the start of this process, in both the House and Senate, the development of this legislation was a joint venture on the part of Republicans and Democrats. In the Senate, I worked closely with Senators KENNEDY, COATS, and DODD each step of the way. In addition, every single member of the Labor and Human Resources Committee—as well as many Members outside the committee—made positive contributions to this measure.

Since its inception in 1965, the Higher Education Act has been focused on enhancing the opportunities of students to pursue postsecondary education. The grant, loan, and work study assistance made available by this Act has made the difference for countless millions in pursuing their dreams for a better life.

In the face of rising college costs, the 1998 amendments have provided students with the lowest cost loans in nearly two decades. With increasing concern about the quality of our nation's teachers, this act will take giant steps in improving teacher preparation. And with students, parents, and—frankly—Senators concerned about the delivery of student aid, this act completely overhauls the federal role by placing it in the hands of a professional and accountable agency within the Department of Education.

I believe the lasting legacy of this reauthorization bill will be its provisions dealing with teachers. At its foundation, it embraces the notion that investing in the preparation of our nation's teachers is a good one. Well prepared teachers play a key role in making it possible for our students to achieve the standards required to assure both their own well being and the ability of our country to compete internationally. In fact, the continued health and strength of our nation depends on our country's ability to improve the education of our young people. Integral to that is the strength and ability of our nation's teaching force. Without a strong, competent, well prepared teaching force, other investments in education will be of little value.

CARL D. PERKINS VOCATIONAL-TECHNICAL EDUCATION ACT

The story does not end here, as several other important education initiatives are "in the pipeline" on the way to the President. Last week, the House and Senate gave final approval to legislation designed to more fully develop the academic, technical, and vocational skills of secondary and postsecondary students enrolled in vocational and technical education programs in order for the United States to be more competitive in the world economy.

This legislation is an important complement to the Workforce Investment Act and benefitted from the same bipartisan teamwork which produced that Act. The Workforce Investment Act streamlined and consolidated a myriad of job training programs and also put into place tough accountability mechanisms. The 1998 Perkins reauthorization emphasizes the important balance between a strong academic background and a vocational and technical education system that reflects today's global economy.

There are presently between 200,000 and 300,000 unfilled positions in the technology field. The reason for the difficulty in filling these positions is not because of low unemployment numbers, but because of the lack of skilled workers. These positions require an excellent vocational education system and the ability to pursue further technical education following high school.

READING EXCELLENCE ACT

Also in line for signature by the President is the Reading Excellence Act. The purpose of this legislation is to improve both the reading skills of students and the instructional practices for teachers who teach reading, and to expand family literacy programs—including the Even Start program. States and local communities will work together as a partnership in providing professional development activities to teachers and other instructional staff and in carrying out family literacy efforts.

HEAD START

Under the leadership of Senator COATS, and with the assistance of Senators DODD and KENNEDY, we will also enact this Congress a reauthorization of the Head Start program. Recognizing the critical role of the preschool years in a young child's development, this legislation expands the Early Head Start program for our youngest children in a manner which balances the desire to make this program available to more children and families and the need to ensure that every Head Start program meets the high standards of quality that we have demanded.

The new evaluation and research provisions will provide much-needed information about how the program operates, help identify the "best practices," and will guide the grantees, the Department of Health and Human Services, and Congress to continue the improvements in Head Start which began four years ago.

CHARTER SCHOOLS

Finally, the President will soon be presented with the Charter School Expansion Act of 1998. Senators COATS and LIEBERMAN are to be particularly commended for their skill and persistence in forging a bipartisan alliance on behalf of this legislation. The purpose of this legislation is to provide financial assistance for the planning, design, and initial implementation of new charter schools. This assistance will enhance the efforts of states and local communities to increase the number of charter schools and will help meet the President's goal of having 3,000 charter schools by the year 2000.

In terms of education, I believe that the 105th Congress is among the most productive in my memory. The actions we have taken this Congress touch the lives of students of all ages—from youngsters in Head Start and Even Start, to special education students, to high school vocational students, to college undergraduates and graduate students, to adults in need of remedial education.

It is unfortunate that all of this work seems to have been forgotten. It is also unfortunate that no one is acknowledging that congressional Republicans stand ready to spend as much money on education as we have offsets to support.

Instead, an effort appears to be underway to convince the American public that failing to fund an untested and unauthorized program to reduce class size should be taken as a sign of total neglect of education by this Congress. The facts just don't support that conclusion. The number of teachers is not

as important as the quality of teachers. On the Federal level we must focus on promoting and ensuring quality. We don't necessarily need millions of new teachers—what we really need are millions of good teachers.

To hear the President and his advisers, hiring more teachers and reducing classroom size is the silver bullet which will solve the many deficiencies now plaguing our elementary and secondary schools. What we should all know by now is that there are no silver bullets when it comes to assuring the quality of education.

Rather, the only way to achieve the goals we seek is through the constant, day-to-day plugging away on behalf of the highest possible standards in all our education endeavors. I believe that the Congress is doing its part and that we have the legislative record to back that up.

RECOGNIZING THE CONTRIBUTIONS OF THE CITIES OF BRISTOL, TENNESSEE AND BRISTOL, VIRGINIA

Mr. JEFFORDS. I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 214, which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A resolution (H. Con. Res. 214) recognizing the contributions of the cities of Bristol, Tennessee, and Bristol, Virginia, and their people to the origins and development of Country Music, and for other purposes.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 214), with its preamble, was agreed to.

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

Mr. JEFFORDS. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 466, S. 1259.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (S. 1259) to authorize appropriations for fiscal years 1998 and 1999, for the United States Coast Guard, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1259

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 "Coast Guard Authorization Act for Fiscal Years 1998 and 1999".

SEC. 2. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of sections.
Title I—Appropriations; Authorized Levels
Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Title II—Coast Guard Management
Sec. 201. Severance pay.
Sec. 202. Authority to implement and fund certain awards programs.
Sec. **[**202.**]** *203.* Use of appropriated funds for commercial vehicles at military funerals.
Sec. **[**203.**]** *204.* Authority to reimburse Novato, California, Reuse Commission.
Sec. **[**204.**]** *205.* Eliminate supply fund reimbursement requirement.
[Sec. 205. Authority to implement and fund certain awards programs.**]**
Sec. 206. Disposal of certain material to Coast Guard Auxiliary.
Title III—Marine Safety and Environmental Protection.
Sec. 301. Alcohol testing.
Sec. 302. Penalty for violation of International Safety Convention.
Sec. 303. Protect marine casualty investigations from mandatory release.
Sec. 304. Eliminate biennial research and development report.
Sec. 305. Extension of territorial sea for certain laws.
Sec. 306. Law enforcement authority for special agents of the Coast Guard Investigative Service.
Title IV—Miscellaneous
Sec. 401. Vessel Identification System amendments.
Sec. 402. Conveyance of communication station Boston Marshfield receiver site, Massachusetts.
Sec. 403. Conveyance of Nahant parcel, Essex County, Massachusetts.
Sec. 404. Conveyance of Eagle Harbor Light Station.
Sec. 405. Conveyance of Coast Guard station, Ocracoke, North Carolina.
Sec. 406. Conveyance of Coast Guard property to Jacksonville University, Florida.
Sec. 407. Coast Guard City, USA.
Sec. 408. Vessel documentation clarification.
Sec. 409. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) *FISCAL YEAR 1998.*—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1998, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $645,696,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

(b) *FISCAL YEAR 1999.*—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1999, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,740,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $379,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $675,568,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program,

$26,000,000 to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) *1998 END-OF-YEAR STRENGTH.*—The Coast Guard is authorized an end-of-year strength for active duty personnel of 37,660 as of September 30, 1998.

(b) *1998 MILITARY TRAINING STUDENT LOADS.*—For fiscal year 1998, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,368 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 797 student years.

(c) *1999 END-OF-YEAR STRENGTH.*—The Coast Guard is authorized an end-of-year strength for active duty personnel of such numbers as may be necessary as of September 30, 1999.

(d) *1999 MILITARY TRAINING STUDENT LOADS.*—For fiscal year 1999, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, such student years as may be necessary.

(2) For flight training, such student years as may be necessary.

(3) For professional training in military and civilian institutions, such student years as may be necessary.

(4) For officer acquisition, such student years as may be necessary.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. SEVERANCE PAY.

(a) [Warrant Officers.—] *WARRANT OFFICERS.*—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) SEPARATED OFFICERS.—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting ", unless the officer is separated with an other than [Honorable Discharge] *honorable discharge* and the Secretary of the Service in which the Coast Guard is operating determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

(c) EXCEPTION.—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting ", unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of severance pay.".

SEC. 202. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

(a) Section 93 of title 14, United States Code, is amended —

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(w) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including but not limited to state and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).".

SEC. [202.] *203.* USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.

Section 93 of title 14, United States Code, as amended by [Section 203] *section 202* of this Act, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(x) rent or lease, under such terms and conditions as are deemed advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.".

SEC. [203.] *204.* AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.

The Commandant *of the United States Coast Guard* may use up to $25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority's reuse plan as a result of the Coast Guard's request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

SEC. [204.] *205.* ELIMINATE SUPPLY FUND REIMBURSEMENT REQUIREMENT.

Subsection 650(a) of title 14, United States Code, is amended by striking ["The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof."] *the last sentence* and inserting "In these regulations, whenever the fund is reduced to delete items stocked, the Secretary may reduce the existing capital of the fund by the value of the materials transferred to other Coast Guard accounts. Except for the materials so transferred, the fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.".

[SEC. 205. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

[(a) Section 93 of title 14, United States Code, is amended —

[(1) by striking "and" after the semicolon at the end of paragraph (w);

[(2) by striking the period at the end of paragraph (x) and inserting "; and"; and

[(3) by adding at the end the following new paragraph:

["(y) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including but not limited to state and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).".]

SEC. 206. DISPOSAL OF CERTAIN MATERIAL TO COAST GUARD AUXILIARY.

(a) Section 641 of title 14, United States Code, is amended—

(1) by striking "to the Coast Guard Auxiliary, including any incorporated unit thereof," in subsection (a) ; and

(2) by adding at the end thereof the following:

"(f)(1) Notwithstanding any other law, the Commandant may directly transfer ownership of personal property of the Coast Guard to the Coast Guard Auxiliary (including any incorporated unit thereof), with or without charge, if the Commandant determines—

"(A) after consultation with the Administrator of General Services, that the personal property is excess to the needs of the Coast Guard but is suitable for use by the Auxiliary in performing Coast Guard functions, powers, duties, roles, missions, or operations as authorized by law pursuant to section 822 of this title; and

"(B) that such excess property will be used solely by the Auxiliary for such purposes.

"(2) Upon transfer of personal property under paragraph (1), no appropriated funds shall be available for the operation, maintenance, repair, alteration, or replacement of such property, except as permitted by section 830 of this title.".

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

SEC. 301. ALCOHOL TESTING.

(a) ADMINSTRATIVE PROCEDURE.—Section 7702 of title 46, United States Code, is amended—

(1) by striking "(1)" in subsection (c);

(2) by redesignating paragraph (2) of subsection (c) as subsection (d)(1) and by redesignating subsection (d) as subsection (e);

(3) by striking "may" in the second sentence of subsection (d)(1) as redesignated, and inserting "shall"; and

(4) by adding at the end of subsection (d), as redesignated, the following:

"(2) The Secretary shall establish procedures to ensure that after a serious marine incident occurs, alcohol testing of crew members responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such incident is conducted no later than two hours after the incident is stabilized.".

(b) INCREASE IN CIVIL PENALTY.—Section 2115 of title 46, United States Code, is amended by striking "$1,000" and inserting "$5,000".

(c) INCREASE IN NEGLIGENCE PENALTY.—Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000 for a first violation and not more than $5,000 for a subsequent violation; or" and inserting "$5,000; or".

SEC. 302. PENALTY FOR VIOLATION OF INTERNATIONAL SAFETY CONVENTION.

[(a) IN GENERAL.—]Section 2302 of title 46, United States Code, is amended by adding at the following new subsection:

"(e)(1) A vessel may not be used to transport cargoes sponsored by the United States Government if the vessel has been detained by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention.

["(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the detention on which the prohibition is based or upon the Secretary granting an appeal of the detention on which the prohibition is based.

["(3) The head of a Federal Agency may grant an exemption from the prohibition in paragraph (1) on a case by case basis if the owner of the vessel to be used for transport of the cargo sponsored by the United States Government can provide compelling evidence

that the vessel is currently in compliance with applicable international safety conventions to which the United States is a party.

[''(4) As used in this subsection, the term 'cargo sponsored by the United States Government' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.''.]

''(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the detention on which the prohibition is based or upon the Secretary granting an appeal of the detention on which the prohibition is based.

''(3) The head of a Federal Agency may grant an exemption from the prohibition in paragraph (1) on a case by case basis if the owner of the vessel to be used for transport of the cargo sponsored by the United States Government can provide compelling evidence that the vessel is currently in compliance with applicable international safety conventions to which the United States is a party.

''(4) As used in this subsection, the term 'cargo sponsored by the United States Government' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.''.

SEC. 303. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.

Section 6305(b) of title 46, United States Code, is amended by striking all after ''public'' and inserting a period and ''This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.''.

SEC. 304. ELIMINATE BIENNIAL RESEARCH AND DEVELOPMENT REPORT.

[(a)] Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. [2701 et seq.] *2761)* is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

SEC. 305. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

''(5) 'Navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

''(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

(2) Section 2301 of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)'' after ''of the United States''.

(3) Section 4102(e) of that title is amended by striking ''on the high seas'' and inserting ''beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(4) Section 4301(a) of that title is amended by inserting ''(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)'' after ''of the United States''.

(5) Section 4502(a)(7) of that title is amended by striking ''on vessels that operate on the high seas'' and inserting ''beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

''(2) is operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

(7) Section 8502(a)(3) of that title is amended by striking ''not on the high seas'' and inserting: ''not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured''.

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

''(2) [is] operating—

''(A) in internal waters of the United States; or

''(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.''.

SEC. 306. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.

(a) AUTHORITY.—Section 95 of title 14, United States Code, is amended to read as follows:

''§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority

''(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

''(A) To carry firearms.

''(B) To execute and serve any warrant or other process issued under the authority of the United States.

''(C) To make arrests without warrant for—

''(i) any offense against the United States committed in the agent's presence; or

''(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

''(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

''(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

''(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of transportation or the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

''95. Special agents of the Coast Guard Investigative Service; law enforcement authority.''.

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

Title 46, United States Code, is amended—

(1) by striking ''or is not titled in a State'' in section [12102(a);] *12102(a);*

(2) by adding at the end of section 12301 the following:

''(c) A documented vessel shall not be titled by a State or required to display numbers under this chapter, and any certificate of title issued by a State for a documented vessel [than] *shall* be surrendered in accordance with regulations prescribed by the Secretary.

''(d) The Secretary may approve the surrender under subsection (a) of a certificate of title covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.'';

(3) by striking section 31322(b) and inserting the following:

''(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.'';

(4) by striking ''mortgage or instrument'' each place it appears in section 31322(d)(1) and inserting ''mortgage, security agreement, or instrument'';

(5) by striking section [31322(d)(1)(3)] *31322(d)(3)* and inserting the following:

''(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this [subsection'';] *subsection.'';*

(6) by striking ''mortgages or instruments'' in subsection 31322(d)(2) and inserting ''mortgages, security agreements, or instruments'';

(7) by inserting ''a vessel titled in a State,'' in section 31325(b)(1) after ''a vessel to be documented under chapter 121 of this title,'';

(8) by inserting ''a vessel titled in a State,'' in section [31325(b)(8)] 31325(b)(3) after ''a vessel for which an application for documentation is filed under chapter 121 of this title,''; and

(9) by inserting ''a vessel titled in a State,'' in section 31325(c) after ''a vessel to be documented under chapter 121 of this title,''.

SEC. 402. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts.

(2) LIMITATION.—The Secretary shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—

(A) The Secretary may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Secretary shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and [conditions;] *conditions:*

(A) The Secretary may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Secretary considers appropriate to protect the interests of the United States.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect January 1, 1998.

SEC. 403. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.

(a) IN GENERAL.—The Commandant, United States Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant.

(b) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate.

SEC. 404. CONVEYANCE OF EAGLE HARBOR LIGHT STATION.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Eagle Harbor Light Station, Michigan, to the Keweenaw County Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3), (4), and (5) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property—

(A) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(B) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the person to which the property is conveyed may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The person to which the property is conveyed is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) REVERSION BASED ON USE.—The conveyance of the property described in subsection (a) is subject to the condition that all right, title, and interest in the property conveyed shall immediately revert to the United States if the property, or any part of the property ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history.

(6) MAINTENANCE OF PROPERTY.—The person to which the property is conveyed shall maintain the property in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

SEC. 405. CONVEYANCE OF COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant, United States Coast Guard, or his designee (the "Commandant") may convey, by an appropriate means of conveyance, all right, title, and interest of the United States of America (the "United States") in and, to the Coast Guard station Ocracoke, North Carolina, to the ferry division of the North Carolina Department of Transportation.

(2) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—The conveyance of any property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) EASEMENTS.—The Commandant may reserve utility, access, and any other appropriate easements upon the property to be conveyed for the purpose of—

(i) use of the access road to the boat launching ramp;

(ii) use of the boat launching ramp; and

(iii) use of pier space for necessary search and rescue assets (including water and electrical power).

(B) MAINTENANCE.—The ferry division of North Carolina Department of Transportation, and its successors and assigns shall, at its own cost and expense, maintain the property conveyed under this section in a proper, substantial and workmanlike manner necessary for the use of any easements created under subparagraph (A).

(C) REVERSIONARY INTEREST.—All right, title, and interest in and to administered by the general services administration if the property, or any part thereof, ceases to be used by the Ferry Division of North Carolina Department of Transportation.

(D) OTHER.—Any other terms and conditions the Commandant may consider appropriate to protect the interests of the United States.

SEC. 406. CONVEYANCE OF COAST GUARD PROPERTY TO JACKSONVILLE UNIVERSITY, FLORIDA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation may convey to the University of Jacksonville, Florida, without consideration, all right, title, and interest of the United States in and to the property comprising the Long Branch Rear Range Light, Jacksonville, Florida.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—Any conveyance of any property under this section shall be made—

(1) subject to the terms and conditions the Commandant may consider appropriate; and

(2) subject to the condition that all right, title, and interest in and to property conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by Jacksonville University, Florida.

SEC. 407. COAST GUARD CITY, USA.

The community of Grand Haven, Michigan, shall be recognized as "Coast Guard City, USA".

SEC. 408. VESSEL DOCUMENTATION CLARIFICATION.

Section 12102(a)(4) of title 49, *46*, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking "president or other"; and

(2) inserting a comma and "by whatever title," after "chief executive officer".

SEC. 409. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO; SANCTIONS FOR OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end new section 2237 to read as follows:

"§ 2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information

"(a)(1) It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to knowingly fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(2) The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which, a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable

international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under paragraph (1).

"(b)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order to bring to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest or other law enforcement action authorized by any Federal law; or

"(C) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(c) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

"(e) For purposes of this section—

"(1) A 'vessel of the United States' and a 'vessel subject to the jurisdiction of the United States' have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States;

"(3) an aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft;

"(4) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(5) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(f) Any person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than 3 years; and

"(2) a fine as provided in this title.

"(g) An aircraft that is used in violation of this section may be seized and forfeited. A vessel that is used in violation of subsection (b)(1) or subsection (b)(2)(A) may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel or aircraft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by inserting the following new item after the item for section 2236:

"2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding or providing false information.".

Mr. JEFFORDS. I ask unanimous consent the committee amendments be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Committee amendments were withdrawn.

AMENDMENT NO. 3813

Mr. JEFFORDS. Senator SNOWE has a substitute amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Ms. SNOWE, proposes an amendment numbered 3813.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Ms. SNOWE. Mr. President, today the Senate is considering S. 1259, the Coast Guard Authorization Act for Fiscal Years 1998, 1999, and 2000. Members of the Subcommittee on Oceans and Fisheries have been working on this legislation for much of the past year. My substitute amendment incorporates changes made to the bill since the Commerce Committee reported it, and which enjoys strong bipartisan support. These changes are based on comments that we received from a number of senators.

The Coast Guard is one of our nation's most important agencies. It aids people in distress, prevents injury and the loss of life, defends our oceans borders from the scourge of illegal drugs and other national security threats, maintains the safety of our waterways, and performs many other essential missions with a high degree of professionalism. My State of Maine has a 3,500 mile coastline, and the Coast Guard plays an indispensable role in the safety and economy of the many people who live along the coast. The same is true for every other coastal state in the nation.

In 1996, we enacted the Coast Guard Authorization Act of 1996, which authorized the Coast Guard through fiscal year 1997. The substitute amendment before us today reauthorizes appropriations and personnel levels for the Coast Guard through fiscal year 2000. In each of fiscal years 1999 and 2000, it authorizes $100 million over the administration's fiscal year 1999 for drug interdiction activities. These increases will restore Coast Guard drug interdiction to the fiscal year 1997 level. The amendment also includes various provisions that, among other things, are designed to provide greater flexibility to the Coast Guard on personnel administration, streamline the inventory management process, eliminate an unnecessary reporting requirement, enhance the safety of marine transportation, and strengthen Coast Guard law enforcement activities.

Several provisions of the amendment that are particularly important to people in Maine and other states deserve special mention. Section 301 requires the Coast Guard to ensure that alcohol testing of vessel crew members is conducted within 2 hours of marine accidents, unless safety considerations prevent it. This section also increases the maximum civil penalties for failure to adhere to alcohol/drug testing procedures and for operating a vessel while intoxicated.

Section 310 requires the Coast Guard to issue a report identifying U.S. waters out to 50 miles that cannot currently be reached within 2 hours by a Coast Guard search and rescue helicopter. The report must identify options to ensure that these areas can be covered by a helicopter within 2 hours.

Section 313 authorizes the Secretary of Transportation to establish, in consultation with the International Maritime Organization, two mandatory ship reporting systems in Cape Cod Bay and the Great South Channel (east of Cape Cod). Ships entering these areas will have to report to the Coast Guard so that the Coast Guard may track their movements and provide them with information on whale sightings. The provision is intended to protect against ship strikes of the highly endangered Northern right whale.

Title V of the bill contains S. 1480, the Harmful Algal Bloom and Hypoxia Research and Control Act, a bill that I have sponsored with a number of senators on both sides of the aisle. The Commerce Committee recently reported the bill with unanimous bipartisan support. It directs the administration to develop plans for dealing more effectively with harmful algal

blooms like pfiesteria and hypoxia, or the dead zone, in the Gulf of Mexico. It also authorizes additional funding for NOAA's research and monitoring activities on harmful algal blooms and hypoxia.

Mr. President, I wish to emphasize one very important point with respect to these plans in title V, particularly the plan on Northern Gulf of Mexico hypoxia. The language in its provision requires the plan to be developed in conjunction with the States. The intent of this language is to ensure that the States play a substantial and constructive role in each stage of the development of the plan, and that their concerns and recommendations will be address by the administration before a plan is completed. Finding creative and sensible solutions to the Gulf of Mexico hypoxia problem will not be possible without the advice and cooperation of the affected States.

This bipartisan bill reflects many months of painstaking effort and compromise. It will help to ensure that the Coast Guard will be able to perform its critical missions over the next 2 years. I urge my colleagues to support the bill.

Mr. KERRY. Mr. President, I am pleased to support the bill before us today which would authorize the programs and activities of the U.S. Coast Guard for fiscal years 1998, 1999 and 2000.

Mr. President, Massachusetts with its hundreds of miles of coastline, unforgiving storms, active maritime and fishing industries, and thriving recreational boating population, needs the Coast Guard at full strength. So does the rest of the nation.

That is why I am pleased to support the bill before us today. I would like to describe some of the ways in which this bill addresses the challenges facing the Coast Guard. Our nation's maritime navigational infrastructure is of critical importance to a healthy economy. Over 95 percent of our nation's imports and exports are transported through our coastal waters by commercial shipping. This bill authorizes funds for the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft. In addition, I am extremely pleased that the bill authorizes necessary funding which will extend the useful life of the LORAN-C System. While the Differential Global Positioning System (DGPS) has revolutionized precise navigation by ships and aircraft, we must recognize that there are still millions who rely on LORAN-C.

One of the most important functions of the Coast Guard is to promote marine safety and environmental protection. This bill calls on the Secretary to establish procedures to ensure that after a serious marine incident occurs, alcohol testing of crew members or other persons responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such an incident is conducted no later than 2 hours after the incident occurs.

I am pleased to see included here a provision designed to protect right whales. I worked closely with the Coast Guard and others to ensure that this bill included language that calls on the Secretary to implement and enforce two mandatory ship reporting systems, consistent with international law. One of these areas is located offshore of the Cape Cod Bay and Great South Channel. Upon entry into one of these areas, ships will be made aware of right whale sightings in order to lower the possibility of collision with these marine mammals.

I am very pleased that this bill includes three land conveyances which transfer properties from the Coast Guard to Massachusetts communities: conveyance of communication station Boston Marshfield receiver site; conveyance of Nahant Parcel, Essex County; and conveyance of the Coast Guard Loran Station Nantucket.

Mr. President, I am especially supportive of this bill's inclusion of language which will relieve the hiring freeze on the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), first imposed following the 1995 National Performance Review. This provision, which I am pleased to have sponsored, will guarantee consistent stewardship of the NOAA Corps and the very important role the Corps plays in NOAA and to our Nation. This legislation will restore stability and renew the good faith contract made with the men and women of the NOAA Corps by establishing a minimum and maximum authorized strength for our nation's seventh uniformed service.

The NOAA Corps is an indispensable part of NOAA: a pool of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines. Corps officers serve in assignments within the five major line offices of NOAA. They operate ships, fly aircraft into hurricanes, lead mobile field parties, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA. They operate the ships that set buoys used to gather oceanographic and meteorological data on unusual weather phenomena such as El Nino. They fly research aircraft into hurricanes that record valuable atmospheric observations. They conduct hydrographic surveys along our nation's coast in order to make our waters safe for maritime commerce.

This legislation will establish staffing levels for the NOAA Corps that will provide some assurance of long term viability. It is time that we reaffirm our commitment to studying the earth's oceans and atmosphere by insuring that the NOAA Corps is staffed at the appropriate level.

Finally, Mr. President, let me again turn to the Coast Guard provisions in this bill. The Coast Guard is essential to the safety and well-being of citizens in every coastal state and in every state with navigable waters. Today, over 50 percent of the U.S. population lives within coastal areas and directly benefits from the services the Coast Guard provides. But, indirectly, the Coast Guard, in the performance of its mission, is there to protect every American and every visitor to our coastal waters. In fact, more than two-thirds of the total budget for the Coast Guard goes to operating expenses to protect public safety and the marine environment; to enforce fishery and other laws and treaties; maintain aids to navigation; prevent illegal drug trafficking and illegal immigration; and preserve defense readiness. S. 1259 will make management improvements and enhance law enforcement authority for the Coast Guard, enhancing its ability to accomplish these missions. I urge my colleagues to support this bill.

Mr. BREAUX. Mr. President, I rise today to support S. 1259, the United States Coast Guard Authorization Act. As many of my distinguished colleagues know, I have a great deal of admiration for the Coast Guard, as well as for Coast Guard men and women that carry out critical missions for our country. Before going into greater detail on the importance of the Coast Guard, I wish to discuss an amendment that Senator FORD and I intended to offer to this bill, but have withdrawn in order to address certain concerns raised by my colleague from Rhode Island, Senator CHAFEE. Our amendment would have eliminated the unjustified use of strict criminal liability statutes that do not require a showing of criminal intent or even the slight negligence in oil spill incidents.

Through comprehensive congressional action that led to the enactment and implementation of the Oil Pollution Act of 1990, commonly referred to as "OPA90," the United States has successfully reduced the number of oil spills in the maritime environment and has established a cooperative public/private partnership to respond effectively in the diminishing number of situations when an oil spill occurs. Nonetheless, over the course of the last eight years, the use of the unrelated strict criminal liability statutes that I referred to above has undermined the spill prevention and response objectives of OPA90, the very objectives that were established by the Congress to preserve the environment, safeguard the public welfare, and promote the safe transportation of oil. Reasonable, measured refinements in federal law are urgently required to preserve the

objectives of OPA90 by preventing the unjustified use of strict criminal liability in oil spill incidents. Accordingly, I have been working with my distinguished colleague from Kentucky, Senator FORD, and other members of the Senate to include legislation in this bill to enact such refinements.

As stated in the coast Guard's own environmental enforcement directive, a company, its officers, employees, and mariners, in the event of an oil spill "could be convicted and sentenced to a criminal fine even where [they] took all reasonable precautions to avoid the discharge". With increasing frequency, responsible operators in my home state of Louisiana and elsewhere in the United States who transport oil are unavoidably exposed to potentially immeasurable criminal fines and, in the worst case scenario, jail time. Not only is this situation unfairly targeting an industry that plays an extremely important role in our national economy, but it also works contrary to the public welfare.

Mr. FORD. As my colleague from Louisiana well knows, most liquid cargo transportation companies on the coastal and inland waterway system of the United States have embraced safe operation and risk management as two of their most important and fundamental values. For example, members of the American Waterways Operators (AWO) from Kentucky, Louisiana, and other states have implemented stronger safety programs that have significantly reduced personal injuries to mariners. Tank barge fleets have been upgraded through construction of new state-of-the-art double hulled tank barges while obsolete single skin barges are being retired far in advance of the OPA90 timetable. Additionally, AWO members have dedicated significant time and financial resources to provide continuous and comprehensive education and training for vessel captains, crews and shore side staff, not only in the operation of vessels but also in preparation for all contingencies that could occur in the transportation of oil products. As of today, more than 90 percent of the tugboats, towboats and barges owned and operated by AWO member companies are in compliance with the AWO Responsible Carrier Program (RCP), a program developed by the towing industry, on its own initiative, to improve the overall safety, efficiency, and quality of its marine operations. The RCP, complemented by advanced training programs such as the ground breaking wheelhouse resource management and simulator training program for towboat operators, is greatly enhancing the professionalism of mariners engaged in the transportation of oil products.

Mr. President, I know that the commitment to marine safety and environmental protection by responsible members of the oil transportation industry from Kentucky and elsewhere is real. They continue to work closely with the Coast Guard to upgrade regulatory standards in such key areas as towing vessel operator qualifications and navigation equipment on towing vessels. That commitment is demonstrated by industry-driven safety initiatives like the Responsible Carrier Program mentioned above and the Coast Guard-AWO Partnership, which brings the leadership of the industry together with government to solve marine safety and environmental protection problems.

Mr. BREAUX. through the efforts of AWO and other organizations, the maritime transportation industry has achieved an outstanding compliance record with the numerous laws and regulations enforced by the Coast Guard. Let me be clear: responsible carriers, and frankly their customers, have a "zero tolerance" policy for oil spills. For example, I am aware of a major marine transportation company headquartered in Louisiana that has a record of having performed over 5,300 liquid cargo transfer operations without spilling or contaminating any of the almost 2.8 billion gallons it transferred over a recent three year period. Additionally, the industry is taking spill response preparedness seriously. Industry representatives and operators routinely participate in Coast Guard oil spill crisis management courses, PREP Drills, and regional spill response drills. Yet despite all of the modernization, safety, and training efforts of the marine transportation industry, their mariners and shoreside employees cannot escape the threat of criminal liability in the event of an oil spill, even where it is shown that they "took all reasonable precautions to avoid [a] discharge".

Mr. President, as you know, in response to the tragic *Exxon Valdez* spill, Congress enacted OPA90. OPA90 mandated new, comprehensive, and complex regulatory and enforcement requirements for the transportation of oil products and for oil spill response. Both the federal government and maritime industry have worked hard to accomplish the legislation's primary objective—to provide greater environmental safeguards in oil transportation by creating a comprehensive prevention, response, liability, and compensation regime to deal with vessel and facility oil pollution.

Mr. FORD. As my colleague from Louisiana has most ably demonstrated, OPA90 is working in a truly meaningful sense. To prevent oil spill incidents from occurring in the first place, OPA90 provides an enormously powerful deterrent through both its criminal and civil liability provisions. Moreover, OPA90 mandates prompt reporting of spills, contingency planning, and both cooperation and coordination with federal, state, and local authorities in connection with managing the spill response. Failure to report and cooperate as required by OPA90 may impose automatic civil penalties, criminal liability and unlimited civil liability. As a result, the number of domestic oil spills has been dramatically reduced over the past eight years since OPA90 was enacted. Coast Guard statistics reflect that in 1990 there were a total of 35 major and medium oil spills, seven of which were major spills. In 1997, as a direct result of OPA90, there were no major oil spills and the number of medium spills had been reduced to eight. In those limited situations in which oil spills unfortunately occurred, intensive efforts commenced immediately with federal, state and local officials working in a joint, unified manner with the industry, as contemplated by OPA90, to clean up and report spills as quickly as possible and to mitigate to the greatest extent any impact on the environment. OPA90 has provided a comprehensive and cohesive "blueprint" for proper planning, training, and resource identification to respond to an oil spill incident, and to ensure that such a response is properly and cooperatively managed.

OPA90 also provides a complete statutory framework for proceeding against individuals for civil and/or criminal penalties arising out of oil spills in the marine environment. When Congress crafted this Act, it carefully balanced the imposition of stronger criminal and civil penalties with the need to promote enhanced cooperation among all of the parties involved in the spill prevention and response effort. In so doing, the Congress clearly enumerated the circumstances in which criminal penalties could be imposed for actions related to maritime oil spills. In particular, OPA90 properly imposes criminal liability for negligent violations and provides for punishment of up to one year imprisonment and/or fines between $2500 and $25,000 per day. The punishment for each knowing violation was increased by OPA90 to up to three years imprisonment and/or fines between $5000 and $50,000 per day. Furthermore, OPA90 added and/or substantially increased criminal penalties under other pre-existing laws which comprehensively govern the maritime transportation of oil and other petroleum products.

Mr. BREAUX. My colleague from Kentucky and I do not advocate nor do we support any effort to change the tough criminal sanctions that were imposed in OPA90. The criminal sanctions under OPA90 properly follow the traditional notion of what constitutes a criminal act in this country, namely, that a crime occurs when a knowing, intentional act is committed or when a party's conduct is so egregious that "negligence" has occurred. These tough, comprehensive OPA90 provisions collectively operate as a major

deterrent for oil spills and should not be changed.

However, responsible, law-abiding members of the maritime industry in Louisiana and elsewhere are concerned by both the justice Department's willingness in the post-OPA90 environment to use strict criminal liability statues and the Coast Guard's increasing attention to criminal enforcement in oil spill incidents. As you know, strict liability imposes criminal sanctions without requiring a showing of criminal knowledge, intent or even negligence. These federal actions imposing strict liability have created an atmosphere of extreme uncertainty for the maritime transportation industry and Oil Spill Response Organizations (OSROs) about how to respond to and cooperate with the Coast Guard and other federal agencies in cleaning up an oil spill. Criminal culpability in this country, both historically and as reflected in the comprehensive OPA90 legislation itself, typically requires wrongful actions or omissions by individuals through some degree of criminal intent or through the failure to use the required standard of care. However, Federal prosecutors have been employing other antiquated, seemingly unrelated "strict liability" statutes that do not require a showing of "knowledge" or "intent" as a basis for criminal prosecution for oil spill incidents. Such strict criminal liability statutes as the Migratory Bird Treaty Act and the Refuse Act, statutes that were enacted at the turn of the century to serve other purposes, have been used to harass and intimidate the maritime industry, and, in effect, have turned every oil spill into a potential crime scene without regard to the fault or intent of companies, corporate officers and employees, and mariners.

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) provides that "it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, . . . any migratory bird . . .", a violation of which is punishable by imprisonment and/or fines. Prior to the *Exxon Valdez* oil spill in 1989, the MBTA was primarily used to prosecute the illegal activities of hunters and capturers of migratory birds, as the Congress originally intended when it enacted the MBTA in 1918. In the *Exxon Valdez* case itself, and prior to the enactment of OPA90, the MBTA was first used to support a criminal prosecution against a vessel owner in relation to a maritime oil spill, and this "hunting statute" has been used ever since against the maritime industry. The "Refuse Act" (33 U.S.C. 407, 411) was enacted 100 years ago at a time well before subsequent federal legislation essentially replaced it with comprehensive requirements and regulations specifically directed to the maritime transportation of oil and other petroleum products. Such strict liability statutes are unrelated to the regulation and enforcement of oil transportation activities, and in fact were not included within the comprehensive OPA90 legislation as statutes in which criminal liability could be found. With the prosecutorial use of strict liability statutes, owners and mariners engaged in the transportation of oil cannot avoid exposure to criminal liability, regardless of how diligently they adhere to prudent practice and safe environmental standards. Although conscientious safety and training programs, state-of-the-art equipment, proper operational procedures, preventative maintenance programs, and the employment of qualified and experienced personnel will collectively prevent most oil spills from occurring, unfortunately spills will still occur on occasion.

Mr. FORD. Mr. President, to illustrate Senator Beaux's point, please permit me to present a scenario that highlights the dilemma faced by the maritime oil transportation industry in Kentucky. Imagine, if you will, that a company is operating a towing vessel in compliance with Coast Guard regulations on the Mississippi River on a calm, clear day with several fully laden tank barges in tow. Suddenly, in what was charted and previously identified to be a clear portion of the waterway, one of the tank barges strikes an unknown submerged object which shears through its hull and causes a significant oil spill in the river. Unfortunately, in addition to any other environmental damage that may occur, the oil spill kills one or more migratory birds. As you know, under OPA90 the operator must immediately undertake coordinated spill response actions with the Coast Guard and other federal, state, and local agencies to safeguard the vessel and its crew, clean up the oil spill, and otherwise mitigate any damage to the surrounding environment. The overriding objectives at this critical moment are to assure personnel and public safety and to clean up the oil spill as quickly as possible without constraint. However, in the current atmosphere the operator must take into consideration the threat of strict criminal liability under the Migratory Bird Treaty Act and the Refuse Act, together with their attendant imprisonment and fines, despite the reasonable care and precautions taken in the operation and navigation of the two and in the spill response effort. Indeed, in the Coast Guard's recently issued environmental enforcement directive, the statement is made that "[t]he decision to commit the necessary Coast Guard resources to obtain the evidence that will support a criminal prosecution must often be made in the very early stages of a pollution incident." Any prudent operator will quickly recognize the dilemma in complying with the mandate to act cooperatively with all appropriate public agencies in cleaning up the oil spill, while at the same time those very agencies may be conducting a criminal investigation of that operator. Vessel owners and their employees who have complied with federal laws and regulations and have exercised all reasonable care should not continue to face a substantial risk of imprisonment and criminal fines under such strict liability statutes. Criminal liability, when appropriately imposed under OPA90, should be employed only where a discharge is caused by conduct which is truly "criminal" in nature, i.e., where a discharge is caused by reckless, intentional or other conduct deemed criminal by OPA90.

Mr. BREAUX. As the scenario presented by my colleague from Kentucky demonstrates, the unjustified use of strict liability statutes is plainly undermining the very objectives which OPA90 sought to achieve, namely to enhance the prevention of and response to oil spills in Louisiana and elsewhere in the United States. As we are well aware, tremendous time, effort, and resources have been expended by both the federal government and the maritime industry to eliminate oil spills to the maximum extent possible, an to plan for and undertake an immediate and effective response to mitigate any environmental damage from spills that do occur. Clearly unwarranted and improper prosecutorial use of strict liability statutes will have a "chilling" effect on these cooperative spill prevention and response efforts. Indeed, even if we were to believe that criminal prosecution only follows intentional criminal conduct, the mere fact that strict criminal liability statutes are available at the prosecutor's discretion will intimidate even the most innocent and careful operator. With strict liability criminal enforcement, responsible members of the maritime transportation industry and faced with an extreme dilemma in the event of an oil spill—provide less than full cooperation and response as criminal defense attorneys will certainly direct, or cooperate fully despite the risk of criminal prosecution that could result from any additional actions or statements made during the course of the spill response. Consequently, increased criminalization of oil spill incidents introduces uncertainty into the response effort by discouraging full and open communication and cooperation and leaves vessel owners and operators criminally vulnerable for response actions taken in an effort to "do the right thing".

Mr. FORD. In the maritime industry's continuing effort to improve its risk management process, it seeks to identify and address all foreseeable risks associated with the operation of its business. Through fleet modernization, personnel training, and all other

reasonable steps to address identified risks in its business, the industry still cannot manage or avoid the increased risks of strict criminal liability (again, a liability that has no regard to fault or intent). The only method available to companies and their officers to avoid the risk of criminal liability completely is to divest themselves from the maritime business of transporting oil and other petroleum products, in effect to get out of the business altogether. Furthermore, strict liability criminal laws provide a strong disincentive for trained, highly experienced mariners to continue the operation of tank vessels, and for talented and capable individuals from even entering into that maritime trade. A recent editorial highlighted the fact that tugboat captains "are reporting feelings of intense relief and lightening of their spirits when they are ordered to push a cargo of grain or other dry cargo, as compared to the apprehension they feel when they are staring out of their wheelhouses at tank barges", and "that the reason for this is very obvious in the way that they find themselves instantly facing criminal charges * * * in the event of a collision or grounding and oil or chemicals end up in the water". These views were eloquently expressed as well by two tank vessel masters in a recent House hearing on strict criminal liability for oil pollution. Certainly, the federal government does not want to create a situation where the least experienced mariners are the only available crew to handle the most hazardous cargoes, or the least responsible operators are the only available carriers. Thus, the unavoidable risk of such criminal liability directly and adversely affects the safe transportation of oil products, an activity essential for the public, the economy, and the nation.

Mr. BREAUX. Therefore, Mr. President, despite the commitment and effort to provide trained and experienced vessel operators and employees, to comply with all Coast Guard laws and regulations, to abide by the safety and other operational mandates of the AWO Responsible Carrier Program and other similar industry initiatives, and to provide for the safe transportation of oil as required by OPA90, maritime transportation companies in Louisiana, Kentucky, and elsewhere still cannot avoid criminal liability in the event of an oil spill. Responsible, law-abiding companies have unfortunately been forced to undertake the only prudent action that they could under the circumstances, namely the development of criminal liability action plans and retention of criminal counsel in an attempt to prepare for the unavoidable risks of such liability.

These are only preliminary steps and do not begin to address the many implications of the increasing criminalization of oil spills. The industry is now asking what responsibility does it have to educate its mariners and shoreside staff about the potential personal exposure they may face and wonder how to do this without creating many undesirable consequences? How should the industry organize spill management teams and educate them on how to cooperate openly and avoid unwitting exposure to criminal liability? Mr. President, my colleague from Kentucky and I have thought about these issues a great deal and simply do not know how to resolve these dilemmas under current, strict liability law.

Mr. FORD. In the event of an oil spill, a responsible party not only must manage the cleanup of the oil and the civil liability resulting from the spill itself, but also must protect itself from the criminal liability that now exists due to the available and willing use of strict liability criminal laws by the Federal Government. Managing the pervasive threat of strict criminal liability, by its very nature, prevents a responsible party from cooperating fully and completely in response to an oil spill situation. The OPA90 "blueprint" is no longer clear. Is this serving the objectives of OPA90? Does this really serve the public welfare of our nation? Is this what congress had in mind when it mandated its spill response regime? Is this in the interest of the most immediate, most effective oil spill cleanup in the unfortunate event of a spill? We think not.

Mr. BREAUX. To restore the delicate balance of interests reached in the enactment of OPA90 almost eight years ago, I strongly believe that the Congress should reaffirm the OPA90 framework for criminal prosecutions in oil spill incidents, and work to enact legislation that reasserts the role of OPA90 as the statute providing the exclusive criminal penalties for oil spills. My colleague from Kentucky and I have proposed such legislation that will ensure increased cooperation and responsiveness desired by all those interested in oil spill response issues, while not diluting the deterrent effect and stringent criminal penalties imposed by OPA90 itself. My colleague from Kentucky and I are hopeful that we can work with Senator CHAFEE and other Members of the Congress to ensure the passage of such reform measures to preserve the oil spill prevention and response objectives of OPA90.

Mr. President, another issue of great importance which is addressed in this legislation is the double hull alternative design study. Section 417 directs the Secretary of Transportation to coordinate with the Marine Board of the National Research Council to conduct necessary research and development for alternative tanker designs to the double hull. If this effort utilizes technical performance standards it will undoubtedly enhance development designs such as the central ballast tanker system. These, American designs, some of which have already passed rigorous scientific tests and meet or exceed international shipbuilding standards, have not in my mind received appropriate attention. In my opinion, this may be due to inaccurate interpretation of Congress' intent which the Coast guard believes restricts any consideration of alternative designs to the double hull.

Let me be clear, I am not opposed to the double hull design. In fact, I believe there is a place for the double hull. However, to consider only the double hull, while ignoring new, innovative technology which has been developed since the passage of the Clean Water Act and OPA90 exhibits bad judgment and simply put is bad policy. It is estimated that 8,000 tankers will have to be constructed or redesigned by 2015 to meet the requirements of the petroleum industry. This equates to a ship building program which the industry conservatively estimates to be worth $400 billion, all of which will be built by foreign shipyards if we do not pursue alternative designs. For those who do not believe that U.S. shipyards can't compete—just look at what's happening right now. Currently, there are two hundred double hull tankers under construction or contract around the world of which only two have been built in the United States, both of which lost money for the U.S. shipyard. In fact, I am told that the U.S. shipyard which built these two double hull ships has refused to construct anymore. Without incorporating innovative design and technology, our shipyards and U.S. workers will lose out to Japanese, Korean, Norwegian and other foreign yards and workers.

Mr. President, this issue is about more than jobs. Being from Louisiana, I am intimately familiar with the importance of this issue from an environmental standpoint. I grew up on Louisiana's Gulf coast and know first hand how environmentally sensitive our wetlands and coastlines are and also appreciate how important their health is to the livelihood of the many people who live along the richest fishery in the world. Therefore, it should come as no surprise that all of us in Louisiana, and I suspect just about all those who live along the Gulf Coast, are extremely concerned with the safety and reliability of oil transport vessels in our waters. Innovative designs like the central ballast tanker system will add a greater degree of safety in our waters an will further protect our sensitive and vitally important coastal ecosystem.

I am confident that the Secretary, in conjunction with the Marine Board, the Coast Guard and industry leaders will pull together to consider and eventually approve alternative designs to the double hull so our waters can be cleaner and safer and our shipyards and

American workers will successfully participate in tanker construction in the years to come.

Mr. President, as I initially indicated, I have a great deal of admiration for the U.S. Coast Guard. I therefore, stand here today in support of S. 1259 the United States Coast Guard Authorization Act.

The Coast Guard is essential to the safety and well being of the citizens of my home state of Louisiana, as well as every other coastal State, every State with navigable waters and even several landlocked States.

Using Louisiana as an example, with its hundreds of miles of coastline, active maritime and fishing industries, and thriving recreational boating population the Coast Guard must be at full strength. The payback to our nation is unparalleled. For instance, every year the Coast Guard:

Saves about 5,000 lives;

Conducts 65,700 search and rescue missions;

Responds to 11,680 hazardous waste spills;

Protects vital marine habitats from encroachment and pollution;

Maintains 50,000 aids to ensure maritime safety; and

Keeps $2.6 billion worth of drugs off U.S. streets.

In the Greater New Orleans area alone, the Coast Guard:

Conducted over 300 search and rescue missions;

Responded to 2500 pollution incidents;

Investigated nearly 700 marine casualties;

Conducted over 2700 vessel inspections; and

Seized hundreds of pounds of drugs (Marijuana and Cocaine).

In the event my distinguished colleagues aren't already amazed let me continue. More than two-thirds of the total budget for the Coast Guard goes to operating expenses to protect public safety and the marine environment, to enforce fishery and other laws and treaties, maintain aids to navigation, prevent illegal drug trafficking and illegal immigrants, and preserve defense readiness. I believe it's our responsibility to ensure that the Coast Guard has adequate resources for its missions as it prepares for the next century. As I've outlined, the resources we provide to the Coast Guard have a direct impact on our communities. The Coast Guard's Search and Rescue Program alone provides a four-to-one return on their Operating Expenses Appropriation and only scratched the surface of what the Coast Guard does for America, everyday, around the clock. This pay-pack is unrivaled and can only be claimed by a few agencies, including the Coast Guard.

Always serving as an example, over the past 4 years, the Coast Guard on its own initiative to reduce overhead eliminated close to 4,000 positions and streamlined to save approximately $400 million per year. This has resulted in the smallest Coast Guard since 1967, yet their workload has grown substantially over the past 3 decades. Over the years, we the Congress has continued to expand the Coast Guard's mission. The "can-do" attitude they continually display should serve as an example to us all. However, we can no longer force this proud maritime service to do more with less.

I now call my colleagues to action. The Coast Guard's fiscal year 1999 budget request contains the minimum funding necessary to sustain Coast Guard operations. As a co-sponsor of the Western Hemisphere Drug Elimination Act, I strongly support increased counter-drug operations, but I believe earmarks to increase them at the expense of several other Coast Guard missions inside a net reduction in operating expenses is not possible.

It goes without saying how important the Coast Guard is to our Nation. I urge my colleagues to assure all necessary funding be secured in the 1999 Transportation Appropriations Bill, expected on the floor any day now. Restoration of earmarks are paramount to avoid necessary loss of life and negatively impacting public safety. I urge my colleagues to ensure the Coast Guard is provided a fiscal year budget very close to the President's request.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. HOLLINGS. Mr. President, I am pleased to join with my Commerce Committee colleagues in supporting legislation to authorize the U.S. Coast Guard. This agency enjoys widespread, bipartisan support—and for good reason. The Coast Guard has an important job and does it well. Last year alone, the Coast Guard conducted 12,449 fisheries enforcement boardings; prevented 103 thousand pounds of cocaine and 102 pounds of marijuana from reaching the streets; gave safety instruction to 570 thousand recreational boaters; responded to 13,654 reports of water pollution or hazardous spills; prevented property loss of $2.5 billion; and saved almost 5,000 lives.

The legislation before us today recognizes the vital contribution that the Coast Guard makes to the war on drugs. It authorizes $100 million over the President's request in fiscal year (FY) 1999 and FY 2000 for drug interdiction. This will allow the Coast Guard to conduct more operations like the one carried out by the Coast Guard Cutter *Dallas* in November of 1997. The *Dallas*, which is homeported in my hometown of Charleston, was participating in a joint surveillance operation with the U.S. Navy, the U.S. Drug Enforcement Agency, and the Colombian Navy. During the operation, the *Dallas* fired 25 warning shots in pursuit of a 40-foot boat spotted off the coast of Columbia and recovered 1 of the 2 tons of cocaine netted in the operation.

This bill authorizes a Coast Guard budget of $3.8 billion for FY 1998, $4.07 billion for FY 1999, and $4.35 billion for FY 2000 covering six appropriations accounts: (1) operating expenses; (2) acquisition, construction, and improvement of equipment and facilities; (3) research and development; (4) retired pay; (5) alteration and removal of bridges; and (6) environmental compliance and restoration. In addition, it authorizes $10 million in FY 1999 and $35 million in FY 2000 for capital expenses related to LORAN-C navigation infrastructure.

S. 1259 also provides for end-of-year military strength and training loads and addresses a number of Coast Guard-related administrative and policy issues. Among such issues, the bill provides for: authority to waive severance pay for officers separated with an other than honorable discharge; removal of the cap on warrant officer severance pay; use of funds for awards programs and car rental for funerals; transfer of equipment to Coast Guard Auxiliary; arrest authority for Special Agents of the Coast Guard Investigative Service; and a prohibition on new navigational assistance user fees through FY 2000.

In addition, the bill enhances the Coast Guard's safety and law enforcement missions. It includes provisions to: require alcohol testing within two hours of a serious marine incident; assess national marine transportation system needs; evaluate the use of emergency position indicating beacons (EPIRBs) by operators of recreational vessels; and establish criminal penalties for the failure of a person to land an aircraft or heave to a vessel when ordered by a Federal law enforcement officer. At this point, I would like to highlight a few key provisions of S. 1259.

GEORGETOWN LIGHT

S. 1259 would convey the only working lighthouse in South Carolina, the Georgetown Light on North Island in Winyah Bay, to the South Carolina Department of Natural Resources (SCDNR). SCDNR owns the property surrounding Georgetown Light and uses it as a wildlife preserve. It has been brought to my attention that the Coast Guard would like to deactivate the light inside of the lighthouse and replace it with a light on an existing tower. SCDNR and members of the community would like to see the light inside of the lighthouse maintained. But the Coast Guard is concerned that the only cost-effective way to maintain this light is through structural modifications to the old lighthouse that could mar its historic character. However, I am confident that the Coast Guard, SCDNR, historic preservation officials, and the local community will

sit down and come to a mutually-agreeable solution for operating this aid to navigation.

PANAMA CANAL TONNAGE CALCULATION

At my request, the bill includes a provision to require the Panama Canal Commission to report on the methodology used to calculate tolls charged to deck container vessels. The tolls currently charged to container ships with on-deck containers are inconsistent with the 1969 International Convention on Tonnage Measurement of Ships (ITC 69). I am concerned that the current tonnage calculation system might adversely impact the traffic of containerized cargo through the Panama Canal. I will continue to monitor the fee structure to ensure that it is fair and does not adversely impact East Coast ports such as Charleston.

NAVIGATIONAL ASSISTANCE USER FEES

S. 1259 would prohibit the Secretary of Transportation from implementing any new navigational assistance user fee until September 30, 2000. Such a fee might discriminate inequitably among users of Coast Guard aids to navigation. While I am not sure that the Coast Guard would have the authority to impose such a fee, I am glad that we could make the law clear on this point.

USE OF EPIRBS FOR RECREATIONAL VESSELS

In the past year, we have heard several tragic stories of lives lost when recreational vessels sink off of our nation's coast. Some of these vessels were close to shore and within range of Coast Guard rescuers but could not be located. They might have been found and tragedy been averted had the vessels been equipped with EPIRBs—devices which broadcast a vessel's position. While non-profit organizations like BOAT/US have encouraged EPIRB use through education and rental programs, more can be done. That is why I have included a provision to require the Coast Guard to evaluate and provide recommendations to stimulate the use and availability of EPIRBs by recreational vessels.

LAW ENFORCEMENT ENHANCEMENT

In 1790, Secretary of the Treasury Alexander Hamilton ordered the construction of Revenue Cutters to stop smuggling and enforce tariffs. Today, the Coast Guard continues that mission, facing an increasingly sophisticated threat from illegal drug smugglers. Providing new authority to deal with an old problem, S. 1259 contains Administration-requested measures to enhance law enforcement. These measures establish sanctions (including seizure and forfeiture) for failure to land an aircraft at the order of a federal officer enforcing drug or money-laundering laws, and for obstructing boarding of a vessel by a Federal Aviation Administration (FAA) revocation of aircraft or airman certificates for such a violation, establish Coast Guard and Customs Service air interdiction authority, and set civil penalties of $15,000 for violations of that authority. In addition, this provision requires that FAA establish conditions, based on observed conduct or prior information, for ordering a plane to land. These provisions are not intended to restrict or affect in any way the Federal Government's current broad authority to conduct border searches. Rather, they should safeguard innocent owners from concerns over unwarranted interference with their operations. I am optimistic that the bill strikes an appropriate balance with the need to assure innocent citizens that they will not be forced to land.

VESSEL IDENTIFICATION SYSTEM AMENDMENTS

The bill would make corrections to the Coast Guard's vessel identification system to make a vessel titled in a state eligible for Federal documentation and to ensure that a preferred mortgage remains preferred if a state title is surrendered for another state title or for federal documentation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) CORPS OFFICERS

Finally, S. 1259 would set a floor on Corps officers of 264 and a ceiling of 299 through FY 2003, designate a flag officer at the Director of the Corps, and lift the hiring freeze on NOAA Corps officers. The Corps has not been permitted to recruit new officers since October 1994, and this methodical, de facto elimination of positions has continued without the oversight or approval of the Congress. While we have been discussing the status of this service, the natural retirements and attrition of time have been slowly bleeding the strength out of the NOAA Corps. The Corps stands below 245 members, down 44 percent from its highest level of 439 in 1995. This provision is intended to settle the issue so that Corps officers and their families are no longer in limbo and NOAA can focus on completing its core missions.

Mr. President, over the past two centuries, the U.S. Coast Guard has built an enduring reputation throughout the world for its maritime safety, environmental protection, humanitarian, and lifesaving efforts. We have all watched the valiant and often heroic work of Coast Guard seamen and officer as they rescue desperate refugees who have taken to the seas in crowded and makeshift boats. Even in the remote regions of the world, the Coast Guard is present, actively engaged in the enforcement of United Nations' embargoes against countries like the former Republic of Yugoslavia and Iraq. The men and women of the Coast Guard respond with equal dedication during times of war and peace. I ask my colleagues to recognize this service by joining me in supporting S. 1259.●

JONES ACT WAIVER/CAMDEN IRON AND METAL

Mr. TORRICELLI. Mr. President I thank Senator SNOWE, Senator MCCAIN, and Majority Leader LOTT for working with us to craft a compromise regarding the coastwise eligibility of Barge APL-60. This limited certification will allow the barge to be used by Camden Iron and Metal in an important new Navy ship disposal initiative. Thanks to the diligent efforts of Senators LAUTENBERG and SPECTER, initial funding of $7.5 million for this ship disposal initiative has been included in the FY99 defense appropriations bill. I would just like to clarify with the Senator from Maine that it is her understanding that this provision will apply to all work done by the barge in connection with the initiative for as many years as the initiative continues.

Ms. SNOWE. Yes, that it is my understanding.

Mr. LAUTENBERG. I, too thank Senator SNOWE, Senator MCCAIN, Majority Leader LOTT, and Senators HOLLINGS and BREAUX for their assistance on this important economic development initiative. The program will involve the development of an environmentally sound method for dismantling the Navy's many decommissioned vessels. Camden Iron and Metal, a critical partner in this initiative, intends to transport pieces of the Navy's ships on the barge from the shipyard to its facility in Camden for further processing. It is a very important project in the city of Camden and I am grateful for their help. I recognize that discussions are under way with the House regarding the Coast Guard authorization and want to ask the chairman for a commitment to giving this provision priority consideration in those discussions.

Ms. SNOWE. I will do every thing I can to ensure that this provision is in any final Coast Guard legislation.

Mr. LAUTENBERG. I thank the Senator from Maine.

Mr. TORRICELLI. Again, I thank the Senator from Maine, Senator MCCAIN, the Majority Leader, as well Senators HOLLINGS and BREAUX.

Mr. MCCAIN. Mr. President, I rise in support of the Coast Guard Reauthorization Act of 1998, 1999, and 2000. The Coast Guard is a branch of the armed forces and a multi-mission agency. The Coast Guard is responsible for our national defense, search and rescue services on our nation's waterways, maritime law enforcement, including drug interdiction and environmental protection, marine inspection, licensing, port safety and security, aids to navigation, waterways management, and boating safety. This bill will provide the Coast Guard with funding and authority to continue to provide the United States with high quality performance of its diverse duties through fiscal year 2000. I commend the men and women of the Coast Guard who serve their country with honor and distinction.

This bill authorizes $100 million over the Administration's budget request in fiscal years 1999 and 2000 for drug interdiction activities. This additional

money will restore drug interdiction funding to approximately the same level which the Coast Guard spent on the war on drugs in 1997. As the primary maritime law enforcement agency, the Coast Guard has played an essential role in our nation's war on drugs. The Commandant of the Coast Guard serves as the Administration's drug interdiction coordinator. With the leadership provided by the Coast Guard, several successful drug interdiction operations performed with other federal agencies have proven to be quite effective. In Operation Frontier Shield, 36,262 pounds of cocaine were seized off the coast of Puerto Rico, and in three months during Operation Frontier Lance, 2,990 pounds of cocaine were seized off the coast of Haiti. Despite these successful operations, the Administration has not provided for an actual increase in drug interdiction funding levels in its fiscal year 1999 budget request. The funding included in this bill signifies the Commerce Committee's endorsement of the Coast Guard's continued role in the war on drugs.

In addition to funding the important multi-missions of the Coast Guard, this bill makes a series of programmatic changes which will help the Coast Guard operate in a more efficient and effective manner. I will briefly highlight and explain several provisions contained in the bill. The bill gives the Coast Guard parity with the Department of Defense for severance pay. It gives the Coast Guard discretion in making decisions related to severance pay for officers being separated with a less than Honorable Discharge and removes the existing cap on warrant officer severance pay. In both instances, the Committee expects the Coast Guard to implement this provision in a fair and uniform manner.

The bill also prohibits a foreign-flag vessel which has been detained for a violation of an international safety convention to which the United States is a party from carrying cargo sponsored by the United States Government for one year after the violation. The Committee intends this penalty to be triggered in the case of serious violations of such conventions.

The bill authorizes the Coast Guard to establish seasonal helicopter search and rescue capability based in Westhampton, NY, from April 15 through October 15. Due to the discretionary nature of this provision, the Committee fully expects the Coast Guard to continue to maintain its complete search and rescue mission based on need. By including this provision, the Committee does not intend to extend any inference of priority for the establishment of such search and rescue capability in a manner that contravenes meeting higher priorities.

The bill authorizes the Coast Guard to administratively convey excess lighthouses. In granting such authority, the Committee is focused on the historic preservation of the lighthouses. However, the Committee expects the Coast Guard to take factors, such as the protection of the taxpayer, into consideration when making such an administrative conveyance. For example, if a conveyance is the source of a local controversy or would result in a waste of taxpayer dollars, the Committee would anticipate that the Coast Guard would exercise its discretion and not make the conveyance.

The bill also provides an administrative process for obtaining a waiver of the coastwise trade laws to allow vessels to commercially operate in the coastwise trade under certain conditions. The waiver authority allows the Administration to process noncontroversial waiver requests in a more expeditious manner than the Congress and improve the responsiveness of the federal government in meeting the needs of many vessel-operating small businesses. I introduced this provision separately as S. 661 and it was adopted by the Committee.

The bill includes S. 1480, the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998. This bill was adopted by the Committee and provides funding for Federal research, monitoring, and management activities to address harmful algal blooms and hypoxia on a national scale.

The bill includes a provision which authorized the Commandant of the Coast Guard to recognize the community of Grand Haven, Michigan as "Coast Guard City USA". The community has a long and lofty tradition of making the Coast Guard at home in Grand Haven. Senator ABRAHAM, Senator LEVIN, and Representative HOEKSTRA worked tirelessly to secure this recognition for Grand Haven. The bill contains discretionary language because the Committee was concerned about possibly precluding any other community in the United States from attaining such recognition under any circumstances.

This bill represents a comprehensive set of improvements which should enhance the efficiency and effectiveness of the day-to-day operation of the Coast Guard. Finally, I would like to express my gratitude and that of the full Commerce Committee to staff who worked on this bill, including Clark LeBlanc, Sloan Rappoport, Jim Sartucci, Penny Dalton, Jean Toal, Carl Bentzel, as well as Tim Cook, a Coast Guard fellow, who provided valuable insight into life in the Coast Guard and how certain provisions in the Coast Guard bill would benefit the men and women in uniform, and Stephanie Bailenson, a Sea Grant fellow, who helped develop the harmful algal bloom legislation and provided an essential scientific perspective on the bill.

Mr. INHOFE. I would like to enter into a colloquy with my friend Senator MCCAIN, who is the chairman of the Senate Commerce Committee, in order to clarify an amendment to the Coast Guard authorization bill. This provision, which was adopted in committee as part of S. 1259, has the unintended effect of raising serious safety concerns for general aviation pilots. It would make it a criminal offense if a pilot knowingly disobeys an order to land, but there is no explicit requirement for reasonable suspicion of criminal activity. It also could make an aircraft owner responsible for paying thousands of dollars to reclaim their aircraft, even if they are totally innocent of any wrongdoing.

As the Senator knows, I have been a pilot for over 40 years, and I understand that an "order to land" could be a dangerous and traumatic experience for a pilot. In fact, the International Standards, Rules of the Air, published by the International Civil Aviation Organization says "interceptions of civil aircraft are, in all cases, potentially hazardous."

The provision was intended to provide additional authority to U.S. law enforcement officers to curtail maritime and aviation drug smuggling near the border, which I'm sure all of us agree is a laudable goal. However, because of the potential danger and immense burden to pilots, I believe some relatively minor changes should be made to the amendment.

With that in mind, I have drafted some changes to the language that I would appreciate the House and Senate considering during their deliberations. These changes will directly address the concerns of the general aviation community without undermining the ability of law enforcement to track and stop pilots involved in illegal activity.

Mr. MCCAIN. I thank my friend, Senator INHOFE, for raising these issues. As he said, the goal of this amendment is to help U.S. law enforcement officers fight the war on drugs. The provision would make it unlawful for a pilot subject to U.S. jurisdiction to knowingly disobey an order to land issued by an authorized Federal law enforcement officer. The provision does try to address the issues you raise by requiring that the FAA write the regulations to define the means by and circumstances under which it would be appropriate to order an aircraft to land. The regulations would include guidelines for determining when an officer may issue an order to land based on observed conduct, prior information, or other circumstances.

Clearly, safety must be a primary consideration in the formulation and administration of these guidelines. Let me also assure the Senator from Oklahoma that the intent of this provision is not to allow for seizure of aircraft owned by people whose planes have

been stolen, borrowed or rented and used illegally without the owner's knowledge. If the general aviation community still has concerns, we will work with you to make sure the issues involving safety and fair treatment of innocent pilots are thoroughly considered. As we discuss the Coast Guard bill with the House, we will work with you and review the language in this provision. I want to assure my friend that I will discuss all of your concerns and recommendations, and recommendations from other Senators with our colleagues in the House.

Mr. INHOFE. I thank the Senator. I appreciate his willingness to work with me on this issue which is of great important to the general aviation community.

Mr. JEFFORDS. I ask consent the Snowe amendment be agreed to, and the bill be considered read a third time.

The amendment (No. 3813) was agreed to.

The bill (S. 1259), as amended, was considered read the third time.

Mr. JEFFORDS. I ask consent the Senate proceed to Calendar No. 221, H.R. 2204.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

The Senate proceeded to consider the bill.

Mr. JEFFORDS. I further ask consent that all after the enacting clause be stricken and the text of S. 1259, as amended, be inserted in lieu thereof. I further ask consent that the bill then be read a third time and passed, and the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD, and finally S. 1259 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2204), as amended, was considered read the third time and passed.

ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT OF 1998

Mr. JEFFORDS. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 575, S. 2364.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (S. 2364) to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3814

(Purpose: To provide a complete substitute)

Mr. JEFFORDS. Mr. President, Senator CHAFEE has a substitute amendment at the desk.

I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. CHAFEE, proposes an amendment numbered 3814.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. JEFFORDS. I ask unanimous consent the substitute be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The substitute amendment was agreed to.

So the bill (S. 2364), as amended, was considered read the third time and passed.

The title was amended so as to read:

A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

REMOVAL OF RESTRICTION ON DISTRIBUTION OF CERTAIN REVENUES TO CERTAIN MEMBERS OF THE AGUA CALIENTE BAND OF CAHUILLA INDIANS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 658, H.R. 700.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 700) to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause an insert in lieu thereof the following:

SECTION 1. FINDINGS.

Congress finds that—

(1) among its purposes, the Act entitled "An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959, commonly known as the "Agua Caliente Equalization Act of 1959" (25 U.S.C. 951 et seq.) (referred to in this section as the "Act") was intended to provide for a reasonable degree of equalization of the value of allotments made to members of the Agua Caliente Band of Cahuilla Indians;

(2) the Act was enacted in response to litigation in Federal courts in Segundo, et al, v. United States, 123 F. Supp. 554 (1954);

(3) the case referred to in paragraph (2) was appealed under the case name United States v. Pierce, 235 F. 2d 885 (1956) and that case affirmed the entitlement of certain members of the Band to allotments of approximately equal value to lands allotted to other members of the Band;

(4)(A) to achieve the equalization referred to in paragraph (3), section 3 of the Act (25 U.S.C. 953) provided for the allotment or sale of all remaining tribal lands, with the exception of several specifically designated parcels, including 2 parcels in the Mineral Springs area known as parcel A and parcel B;

(B) section 3 of the Act restricted the distribution of any net rents, profits, or other revenues derived from parcel B to members of the Bank and their heirs entitled to equalization of the value of the allotments of those members;

(C) from 1959 through 1984, each annual budget of the Band, as approved by the Bureau of Indian Affairs, provided for expenditure of all revenues derived from both parcel A and parcel B solely for tribal governmental purposes; and

(D) as a result of the annual budgets referred to in subparagraph (C), no net revenues from parcel B were available for distribution to tribal members entitled to equalization under section 3 of the Act referred to in paragraph (1);

(5) by letter of December 6, 1961, the Director of the Sacramento Area Office of the Bureau of Indian Affairs informed the regional solicitor of the Bureau of Indian Affairs that the equalization of allotments on the Agua Caliente Reservation with respect to those members of the Band who were eligible for equalization had been completed using all available excess tribal land in a manner consistent with—

(A) the decree of the court in the case referred to in paragraph (2); and

(B) the Act;

(6) in 1968, the files of the Department of the Interior with respect to the case referred to in paragraph (3), the closure of which was contingent upon completion of the equalization program, were retired to the Federal Record Center, where they were subsequently destroyed;

(7) on March 16, 1983, the Secretary of the Interior published notice in the Federal Register that full equalization had been achieved within the meaning of section 7 of the Act (25 U.S.C. 957);

(8) section 7 of the Act states that "allotments in accordance with the provisions of this Act shall be deemed complete and full equalization of allotments on the Agua Caliente Reservation"; and

(9) the regulations governing the equalization of allotments under the Act referred to in paragraph (1) were rescinded by the Secretary, effective March 31, 1983.

SEC. 2. DEFINITIONS.

In this Act:

(1) BAND.—The term "Band" means the Agua Caliente Band.

(2) PARCEL B.—The term "parcel B" means the parcel of land in the Mineral Springs area referred to as "parcel B" in section 3(b) of the Act entitled "An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959, commonly known as the "Agua Caliente Equalization Act of 1959" (25 U.S.C. 953(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. EQUALIZATION OF ALLOTMENTS.

(a) IN GENERAL.—The full equalization of allotments within the meaning of section 7 of the Act entitled "An Act to provide for the equalization of allotments on the Agua

Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959, commonly known as the "Agua Caliente Equalization Act of 1959" (25 U.S.C. 957) is deemed to have been completed.

(b) EXPIRATION OF ENTITLEMENT.—By reason of the achievement of the full equalization of allotments described in subsection (a), the entitlement of holders of equalized allotments to distribution of net revenues from parcel B under section 3(b) of the Act entitled "An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959, commonly known as the "Agua Caliente Equalization Act of 1959" (25 U.S.C. 953(b)) shall be deemed to have expired.

SEC. 4. REMOVAL OF RESTRICTION.

(a) IN GENERAL.—The fourth undesignated paragraph in section 3(b) of the Act entitled "An Act to provide for the equalization of allotments on the Agua Caliente (Palm Springs) Reservation in California, and for other purposes", approved September 21, 1959, commonly known as the "Agua Caliente Equalization Act of 1959" (25 U.S.C. 953(b)), is amended by striking "east: *Provided,*" and all that follows through the end of the paragraph and inserting "east.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply as if this section had been enacted on March 31, 1983.

(c) SUBSEQUENT DISTRIBUTIONS.—Any per capita distribution of tribal revenues of the Band made after the date of enactment of this Act shall be made to all members of the Band in equal amounts.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (H.R. 700), as amended, was considered read the third time and passed.

EXPRESSING SENSE OF CONGRESS REGARDING FOREST SERVICE POLICY FOR RECREATIONAL SHOOTING AND ARCHERY RANGES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. Con. Res. 123 and, further, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 123) to express the sense of Congress regarding the policy of the Forest Service toward recreational shooting and archery ranges on Federal land.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 123) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 123

Whereas the Forest Service is developing a national policy to guide its management of existing and proposed shooting and archery ranges on national forest land;

Whereas when managed appropriately, firearm and archery sports are a legitimate use of national forest land;

Whereas the Forest Service has proceeded with closure actions of recreational shooting ranges on Forest Service land without prior notification to Congress or the general public;

Whereas on March 10, 1997, the Forest Service suspended the special-use permit of the Tucson Rod and Gun Club located in the Coronado National Forest near Tucson, Arizona; and

Whereas the Forest Service is evaluating alternative sites in the Coronado National Forest that could be used by the Tucson Rod and Gun Club for firearm and archery sports, the Secretary of Agriculture has directed the expeditious completion of the environmental assessment, and the Forest Service has committed to notify Congress of its decision by November 20, 1998: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SENSE OF CONGRESS REGARDING PUBLIC RECREATIONAL AND MULTI-PURPOSE USE OF UNITED STATES FOREST SERVICE LAND.

It is the sense of Congress that—

(1) the Forest Service should not close shooting or archery facilities without prior notification to Congress and the general public unless there is an immediate threat to public safety;

(2) notification to Congress of any plan for closure of a shooting or archery facility should include the reasons for the closure, including any potential for imminent public safety endangerment;

(3) the Forest Service should avoid unreasonable restrictions in the issuance of special-use permits for firearm and archery sports facilities;

(4) the Forest Service should fully evaluate alternative sites in the Coronado National Forest and provide, to the extent consistent with the environmental assessment, a reasonable alternative that would allow the Tucson Rod and Gun Club to quickly open a safe facility for firearm and archery sports; and

(5) the Forest Service should adhere to its deadline of November 20, 1998, for a decision on a site for the Tucson Rod and Gun Club.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 1722 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1722) to amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3815

(Purpose: To provide for a complete substitute)

Mr. JEFFORDS. Mr. President, Senator FRIST has a substitute amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. FRIST, proposes an amendment numbered 3815.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Health Research and Prevention Amendments of 1998".

TITLE I—PROVISIONS RELATING TO WOMEN'S HEALTH RESEARCH AT NATIONAL INSTITUTES OF HEALTH

SEC. 101. RESEARCH ON DRUG DES; NATIONAL PROGRAM OF EDUCATION.

(a) RESEARCH.—Section 403A(e) of the Public Health Service Act (42 U.S.C. 283a(e)) is amended by striking "1996" and inserting "2003".

(b) NATIONAL PROGRAM FOR EDUCATION OF HEALTH PROFESSIONALS AND PUBLIC.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following:

"EDUCATION REGARDING DES

"SEC. 1710. (a) IN GENERAL.—The Secretary, acting through the heads of the appropriate agencies of the Public Health Service, shall carry out a national program for the education of health professionals and the public with respect to the drug diethylstilbestrol (commonly known as DES). To the extent appropriation, such national program shall use methodologies developed through the education demonstration program carried out under section 403A. In developing and carrying out the national program, the Secretary shall consult closely with representatives of nonprofit private entities that represent individuals who have been exposed to DES and that have expertise in community-based information campaigns for the public and for health care providers. The implementation of the national program shall begin during fiscal year 1999.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 102. RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Section 409A(d) of the Public Health Service Act (42 U.S.C. 284e(d)) is amended by striking "and 1996" and inserting "through 2003".

SEC. 103. RESEARCH ON CANCER.

(A) RESEARCH ON BREAST CANCER.—Section 417B(b)(1) of the Public Health Service Act (42 U.S.C. 286a–8(b)(1)) is amended—

(1) in subparagraph (A), by striking "and 1996" and inserting "through 2003"; and

(2) in subparagraph (B), by striking "and 1996" and inserting "through 2003".

(b) RESEARCH ON OVARIAN AND RELATED CANCER RESEARCH.—Section 417B(b)(2) of the Public Health Service Act (42 U.S.C. 286a–8(b)(2)) is amended by striking "and 1996" and inserting "through 2003".

SEC. 104. RESEARCH ON HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424 the following:

"HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN

"SEC. 424A. (a) IN GENERAL.—The Director of the Institute shall expand, intensify, and coordinate research and related activities of the Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate activities under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to heart attack, stroke, and other cardiovascular diseases in women.

"(c) CERTAIN PROGRAMS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to develop methods for preventing, cardiovascular diseases in women. Activities under such subsection shall include conducting and supporting the following:

"(1) Research to determine the reasons underlying the prevalence of heart attack, stroke, and other cardiovascular diseases in women, including African-American women and other women who are members of racial or ethnic minority groups.

"(2) Basic research concerning the etiology and causes of cardiovascular diseases in women.

"(3) Epidemiological studies to address the frequency and natural history of such diseases and the differences among men and women, and among racial and ethnic groups, with respect to such diseases.

"(4) The development of safe, efficient, and cost-effective diagnostic approaches to evaluating women with suspected ischemic heart disease.

"(5) Clinical research for the development and evaluation of new treatments for women, including rehabilitation.

"(6) Studies to gain a better understanding of methods of preventing cardiovascular diseases in women, including applications of effective methods for the control of blood pressure, lipids, and obesity.

"(7) Information and education programs for patients and health care providers on risk factors associated with heart attack, stroke, and other cardiovascular diseases in women, and on the importance of the prevention or control of such risk factors and timely referral with appropriate diagnosis and treatment. Such programs shall include information and education on health-related behaviors that can improve such important risk factors as smoking, obesity, high blood cholesterol, and lack of exercise.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 105. AGING PROCESSES REGARDING WOMEN.

Section 445H of the Public Health Service Act (42 U.S.C. 285e–10) is amended—

(1) by striking "The Director" and inserting "(a) The Director"; and

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

"(b) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 106. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

Section 486(d)(2) of the Public Health Service Act (42 U.S.C. 287d(d)(2)) is amended by striking "Director of the Office" and inserting "Director of NIH".

TITLE II—PROVISIONS RELATING TO WOMEN'S HEALTH AT CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306(n) of the Public Health Service Act (42 U.S.C. 242k(n)) is amended—

(1) in paragraph (1), by striking "through 1998" and inserting "through 2003"; and

(2) in paragraph (2), by striking "through 1998" and inserting "through 2003".

SEC. 202. NATIONAL PROGRAM OF CANCER REGISTRIES.

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) is amended by striking "through 1998" and inserting "through 2003".

SEC. 203. NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.

(a) SERVICES.—Section 1501(a)(2) of the Public Health Service Act (42 U.S.C. 300k(a)(2)) is amended by inserting before the semicolon the following: "and support services such as case management".

(b) PROVIDERS OF SERVICES.—Section 1501(b) of the Public Health Service Act (42 U.S.C. 300k(b)) is amended—

(1) in paragraph (1), by striking "through grants" and all that follows and inserting the following: "through grants to public and nonprofit private entities and through contracts with public and private entities."; and

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

"(2) CERTAIN APPLICATIONS.—If a nonprofit private entity and a private entity that is not a non-profit entity both submit applications to a State to receive an award of a grant or contract pursuant to paragraph (1), the State may give priority to the application submitted by the nonprofit private entity in any case in which the State determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.".

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) SUPPLEMENTAL GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES.—Section 1509(d)(1) of the Public Health Service Act (42 U.S.C. 300n–4a(d)(1)) is amended by striking "through 1998" and inserting "through 2003".

(2) GENERAL PROGRAM.—Section 1510(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended by striking "through 1998" and inserting "through 2003".

SEC. 204. CENTERS FOR RESEARCH AND DEMONSTRATION OF HEALTH PROMOTION.

Section 1706(e) of the Public Health Service Act (42 U.S.C. 300u–5(e)) is amended by striking "through 1998" and inserting "through 2003".

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3815) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill, as amended, be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1722), as amended, was considered read the third time and passed.

Mr. FRIST. Mr. President, I am pleased to rise today before we adjourn the 105th Congress to acknowledge significant legislation addressing women's health needs in the United States. I originally introduced S. 1722, the "Women's Health Research and Prevention Amendments of 1998," on March 6, 1998, with our Majority Leader, Senator TRENT LOTT, to increase awareness of some of the most pressing diseases and health issues that confront women in our country. I am gratified that the Senate has moved to enact this legislation which will reauthorize important women's health activities at the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC).

We introduced this bill to create greater awareness of women's health issues and to highlight the critical role our public health agencies, the NIH and CDC, play in providing a broad spectrum of activities to improve women's health—including research, screening, prevention, treatment, education, and data collection. The bill has enjoyed broad bipartisan support, which is a testament to the need to combat the diseases affecting women and to maintain the crucial health services that help prevent these diseases. Today we move from raising awareness of these important issues to acting upon them.

This bill includes valuable provisions which support basic and clinical research at the National Institutes of Health. Among other things, these provisions reauthorize research on

osteoporosis and aging processes in women; the drug diethylstilbestrol (DES) which was widely prescribed from 1938 to 1971 and has been shown to be harmful to pregnant women and their children; and breast and cervical cancer. These provisions also establish a new program focused on cardiovascular disease—the number one cause of death in women. The reauthorization of these research programs will help assure scientific progress in our fight against these diseases and will lessen their burden on women and their families.

At the Centers for Disease Control and Prevention, the bill reauthorizes the National Breast and Cervical Cancer Early Detection Program which provides for crucial screening services for breast and cervical cancers to underserved women. It is especially fitting that we enact this legislation today since October is Breast Cancer Awareness month. The American Cancer Society estimates that this year more than 180,000 women will be diagnosed with breast cancer and more than 40,000 women will lose their lives. These are not just statistics—they represent our mothers, sisters, aunts, and daughters. It is with them in mind that we pass this legislation today.

The bill also includes reauthorizations of data collection activities through the National Center for Health Statistics and the National Program of Cancer Registries, the leading sources of national data on the health status of U.S. women. These programs make significant contributions to the health and well-being of women in the United States.

Mr. President, I am proud of our work on women's health. I would like to take this opportunity to thank our Majority Leader, Senator LOTT, for his leadership and support on this issue. I would also like to thank Anne Phelps and Zoë Beckerman of my staff for their hard work on the reauthorization of these programs.

PROVIDING FOR CHANGE IN EXEMPTION FROM CHILD LABOR PROVISIONS OF FAIR LABOR STANDARDS ACT OF 1938

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2327, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2327) to provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors who are 17 years of age and who engage in the operation of automobiles and trucks.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3816

(Purpose: To make certain technical corrections concerning the effective date)

Mr. JEFFORDS. Mr. President, I have an amendment at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3816.

The amendment is as follows:

In section 2 of the bill, strike subsection (b) and insert the following:

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This Act shall become effective on the date of enactment of this Act.

(2) EXCEPTION.—The Amendment made by subsection (a) defining the term "occasional and incidental" shall also apply to any case, action, citation or appeal pending on the date of enactment of this Act unless such case, action, citation or appeal involves property damage or personal injury.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3816) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the bill, as amended, be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2327), as amended, was considered read the third time and passed.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 386, S. 1642.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1642) to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3817

Mr. JEFFORDS. I understand Senator GLENN has a substitute amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. GLENN, proposes an amendment numbered 3817.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TITLE.

This Act may be cited as the "Federal Financial Assistance Management Improvement Act of 1998."

SEC. 2. FINDINGS.

The Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) to simplify Federal financial assistance application and reporting requirements;

(3) to improve the delivery of services to the public;

(4) to facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term "Federal agency" means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term "Federal financial assistance" has the same meaning as defined in section 7501 (a)(5) of title 31, United States Code under which Federal financial assistance is provided, directly or indirectly, to a non-federal entity.

(4) LOCAL GOVERNMENT.—The term "local government" means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code);

(5) NON-FEDERAL ENTITY.—The term "Non-federal entity" means a State, local government, or non-profit organization.

(6) NON-PROFIT ORGANIZATION.—The term "Non-profit organization" means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) TRIBAL GOVERNMENT.—The term "tribal government" means an Indian tribe, as that term is defined in Section 7501(a)(9) of title 31, United States Code.

(9) UNIFORM ADMINISTRATIVE RULE.—The term "uniform administrative rule" means a government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(B) EXTENSION.—If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each noncompliant agency for up to 12 months.

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-federal entities during development and implementation of the plan. Consultation with representatives of State, local and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads, and representatives of non-federal entities, shall direct, coordinate and assist Federal agencies in establishing—

(1) A common application and reporting system, including:

(A) A common application or set of common applications, wherein a non-federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(B) a common system, including electronic processes, wherein a non-federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies;

(2) An interagency process for addressing:

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-federal entities; and

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with the Privacy Act of 1974;

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Agencies shall submit to the Director, upon his request and for his review, information and other reporting regarding their implementation of this Act.

(d) EXEMPTIONS.—

The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which will be available to the public through OMB's Internet site.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans;

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective five years after such date of enactment.

Mr. JEFFORDS. I ask unanimous consent that the substitute amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3817) was agreed to.

Mr. JEFFORDS. I ask unanimous consent that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD, without intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1642), as amended, was considered read the third time and passed.

USDA INFORMATION TECHNOLOGY REFORM AND YEAR-2000 COMPLIANCE ACT OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the agriculture committee be discharged from further consideration of S. 2116 and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2116) to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3818

Mr. JEFFORDS. Mr. President, Senator LUGAR has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. LUGAR, proposes an amendment numbered 3818.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. LUGAR. Mr. President, today I rise in support of S. 2116, the USDA Information Technology Reform and Year-200 Compliance Act of 1998. This legislation aims to centralize all year 2000 computer conversion and other information technology acquisition and management activities within the Office of the Chief Information Officer of the Department of Agriculture. Centralization is the most efficient way to manage the complex task of ensuring that all critical computer functions at the department are operational on January 1, 2000. It is also a wiser and more effective way to construct an information technology infrastructure to enable USDA's hundreds of computer systems to interoperate, which unfortunately they cannot now do.

The Department of Agriculture is charged with enormous responsibilities and its year 2000 readiness is crucial. It has a diverse portfolio of over 200 Federal programs throughout the Nation and the world. The department delivers about $80 billion in programs. It is the fourth largest Federal agency, with approximately 30 agencies and offices. The department is responsible for the safety of our food supply, nutrition programs that serve the poor, young and old, and the protection of our natural resources. Since 40 percent of the non-tax debt owed to the Federal Government is owed to USDA, the department has a responsibility to ensure the financial soundness of taxpayers' investments.

The centralized approach to the year 2000 issue at USDA led to a lack of focus on departmental priorities. This approach resulted in a lack of guidance, oversight and the development of contingency plans. Responsibility for keeping the mission-critical information technology functioning should clearly rest with the Chief Information Officer. I am pleased that Secretary of Agriculture Glickman has pledged his personal commitment to the success of year 2000 compliance and has made it one of the highest priorities for USDA.

The General Accounting Office has long chronicled USDA's history of problems in managing its information technology investments. In August 1993, USDA received authority to spend up to $2.6 billion on a project called Info Share. The goal of Info Share was to improve operations and delivery of services by reengineering business processes and developing integrated information systems. In August 1994, GAO warned that the acquisition of information technology without business process reenginering would be problematic. Ineffective planning and management resulted in USDA's wasting $100 million on Info Share before it was ultimately disbanded.

An August 1998 GAO report warned that USDA's ongoing effort to modernize information technology at its field service centers, faces significant risks. The department could spend more than $3 billion on the project by 2011. The report revealed that USDA has not completed a comprehensive plan for the modernization and lacks the project management structure needed to manage a project of this magnitude. Specifically, USDA has not assigned a senior-level official with overall responsibility, authority and accountability for managing and coordinating the project to ensure it is completed on time and within budget.

In March of this year before a House agriculture subcommittee and again in May before the Senate Agriculture Committee, GAO testified in support of strong Chief Information Officer leadership at USDA. The Information Technology Management Reform Act of 1996, the Clinger-Cohen Act, seeks to strengthen executive leadership in information management and institute sound capital investment decision-making to maximize the return on information systems. Consistent with provisions of that act, more accountability and responsibility and responsibility over the substantial investments the department makes in information technology were recommended by the GAO. The GAO also noted major weaknesses in USDA's component agency efforts and testified that mitigating the risk of year 2000 disruptions requires leadership.

Last year, I introduced S. 805, a bill to reform the information technology systems of the Department of Agriculture. It gave the Chief Information Officer control over the planning, development and acquisition of information technology at the department. Introduction of that bill prompted some coordination of information technology among the department's agencies and offices. This revised legislation, which includes input from the administration, is now needed to strengthen that coordination and ensure that centralized information technology management continues in the future.

This legislation requires that the Chief Information Officer manage the design and implementation of an information technology architecture based on strategic business plans to maximize the effectiveness and efficiency of USDA's program activities. Included in the bill is authority for the Chief Information Officer to approve expenditures over $200,000 for information resources and for year 2000 compliance purposes, except for minor acquisitions. To accomplish these purposes, the bill requires the secretary to transfer up to 10 percent of each agency's information technology budget to the Chief Information Officer's control.

The bill makes the Chief Information Officer responsible for ensuring that the information technology architecture facilitates a flexible common computing environment for the field service centers based on integrated program delivery and provides maximum data sharing with USDA customers and other federal and state agencies, which is expected to result in significant reductions in operating costs.

The bill requires the Chief Information Officer to address the year 2000 computing crisis throughout USDA agencies, between USDA and other Federal, State, and local agencies and between USDA and private and international partners.

Mr. President, this is a bill whose time has come. Unfortunately, USDA's problems in managing information technology are not unusual among government agencies, according to the General Accounting Office. I commend the attention of my colleagues to this bill designed to address a portion of the information resource management problems of the Federal Government and ask for their support of it.

Mr. BOND. I rise to engage the chairman of the committee in a colloquy to clarify a provision of the bill. Mr. Chairman, Section 8 of S. 2116 requires the Secretary of Agriculture to transfer up to 10 percent of the information technology or information resource management funds from each office or agency to the account of the Chief Information Officer. Some of my constituents have expressed concern that this transfer of funds may cause a reduction in the number of employees in an office or agency. A scenario has been brought forth where an office or agency finds it necessary to reduce the number of its employees, using a variety of methods, to facilitate the transfer of funds. Would the chairman address this point?

Mr. LUGAR. At no point during deliberations with the Department of Agriculture was it ever envisioned the transfer of information technology funds would cause reductions in force or furloughs. In fact, great care was taken early in the process to exclude salaries and expenses and intergovernmental payments from the calculations used to determine the amount necessary to adequately fund the development of an information technology architecture. This legislation does not authorize reductions in force or furloughs. The information technology architecture includes telecommunications, service center implementation, and site licenses for computer software and hardware. As introduced, the bill required a transfer of 5 percent of the information technology funds from each office and agency to the Chief Information Officer. Five percent

of those funds represented approximately $40 million. Further negotiations with the department resulted in a revision in the bill that permits the Secretary to transfer up to 10 percent of the information technology funds. This amendment gives the Secretary the flexibility he requested to adjust transfers commensurate with the information technology architecture needs of each office and agency. This transfer authority terminates on September 30, 2003. I hope this addresses the Senator's concerns.

Mr. BOND. I thank the Chairman for the clarification.

Mr. CONRAD. I also rise to engage the chairman of the committee in a colloquy to clarify the provision of the bill. Mr. Chairman, I appreciate your response to the question from the Senator from Missouri. Workforce reductions at Farm Service Agency as well as other agencies within the U.S. Department of Agriculture have impacted the quality of services provided. Employees of the U.S. Department of Agriculture have expressed concern that fund transfers authorized by Section 8 of S. 2116 would be made from an agency's Salary and Expenses budgets and could result in additional workforce reductions. Given the increasing workload at Farm Service Agency field offices in many States, I feel that it is vital that this concern be addressed. Mr. Chairman, is it your intention that fund transfers will be made in a manner which does not jeopardize funds available for salaries?

Mr. LUGAR. As I noted in my earlier remarks, that is my intention. It is my hope that the Secretary will avoid such actions. If, however, the Secretary considers a reduction-in-force or furloughs, I expect that he will first consult the committee before going forward with such actions.

Mr. CONRAD. I thank the Chairman for his helpful remarks.

Mr. JEFFORDS. I ask unanimous consent that the substitute amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3818) was agreed to.

Mr. JEFFORDS. I ask unanimous consent that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2116), as amended, was considered read the third time and passed.

ORDERS FOR TUESDAY, OCTOBER 13, 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Tuesday, October 13, 1998. I further ask that the time for the two leaders be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I further ask unanimous consent that there be a period for the transaction of morning business until 12 noon with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator KENNEDY, 20 minutes; Senator LOTT or his designee, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. JEFFORDS. Mr. President, for the information of all Senators, on Tuesday, the Senate will convene at 11 a.m., and begin a period of morning business until 12 noon. Following morning business, the Senate will await the outcome of the negotiations on the omnibus appropriations bill. As a reminder to all Members, it is hoped that the remaining legislation of the 105th Congress can be disposed of by unanimous consent. However, if a rollcall vote is needed on the omnibus bill, all Members will be given ample notice in order to plan their schedules accordingly.

I have one more unanimous consent request.

DAY OF NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 264, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 264) to designate October 8, 1998, as the Day of National Concern About Young People and Gun Violence.

The Senate proceeded to consider the resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution and the preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements related thereto be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 264

Whereas every day in America, 15 children under the age of 19 are killed with guns;

Whereas in 1994, approximately 70 percent of murder victims aged 15 to 17 were killed with a handgun;

Whereas in 1995, nearly 8 percent of high school students reported having carried a gun in the past 30 days;

Whereas young people are our Nation's most important source, and we, as a society, have a vested interest in helping children grow from a childhood free from fear and violence into healthy adulthood;

Whereas young people can, by taking responsibility for their own decisions and actions, and by positively influencing the decisions and actions of others, help chart a new and less violent direction for the entire Nation;

Whereas students in every school district in the Nation will be invited to take part in a day of nationwide observance involving millions of their fellow students, and will thereby be empowered to see themselves as significant agents in a wave of positive social change; and

Whereas the observance of this day will give American students the opportunity to make an earnest decision about their future by voluntarily signing the "Student Pledge Against Gun Violence", and sincerely promise that they will never take a gun to school, will never use a gun to settle a dispute, and will use their influence to prevent friends from using guns to settle disputes: Now, therefore, be it

Resolved, That—

(1) the Senate designates October 8, 1998, as "the Day of National Concern About Young People and Gun Violence"; and

(2) the President should be authorized and requested to issue a proclamation calling upon the school children of the United States to observe that day with appropriate ceremonies and activities.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on October 12, 1998, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3610. An act 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.

H.R. 3910. Ac act to authorize the Automobile National Heritage Area in the State of Michigan, and for other purposes.

H.R. 4566. An act to make technical corrections to the National Capital Revitalization and Self-Government Improvement Act of 1997 with respect to the courts and court system of the District of Columbia.

H.R. 4567. An act to amend titles XI and XVIII of the Social Security Act to revise the per beneficiary and per visit home health payment limits under the medicare program, to improve access to health care services for certain medicare-eligible veterans, to authorize additional exceptions to the imposition of civil money penalties in cases of payments to beneficiaries, and to expand the membership of the Medicare Payment Advisory Commission.

H.R. 4735. An act to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 295. Concurrent resolution expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932–1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people.

H. Con. Res. 320. Concurrent resolution supporting the Baltic people of Estonia, Latvia, and Lithuania, and condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939.

H. Con. Res. 334. Concurrent resolution relating to Taiwan's participation in the World Health Organization.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2186) to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 2431) to establish an Office of Religious Persecutions Monitoring, to provide for the imposition of sanction against countries engaged in a pattern of religious persecution, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2616) to amend title VI and X of the Elementary and Secondary Education Act of 1965 to improve and expand charter schools.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2886) to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3528) to amend title 28, United States Code, with respect to the use of alternative dispute resolution process in United States district courts, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3796) to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3903) to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4309) to provided a comprehensive program of support for victims of torture.

The message also announced that the House has passed the following bills, with an amendment, in which it requests the concurrence of the Senate:

S. 391. An act to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes.

S. 852. An act to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuild vehicles.

S. 1408. An act to establish the Lower East Side Tenement National Historic Site, and for other purposes.

S. 1525. An act to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

The message further announced that the House has passed the following bills, with amendments, in which it requests the concurrence of the Senate:

S. 469. An act to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic Rivers System.

S. 1677. An act reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1718. An act to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriations of additional amounts for the acquisition of real and personal property.

H.R. 4110. An act to provide a cost-of-living adjustment in rates of compensation paid to veterans with service-connected disabilities, to make various improvements in education, housing, and cemetery programs of the Department of Veterans Affairs, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, without amendment:

S. 231. An act to establish the National Cave and Karst Research Institute in the State of New Mexico, and for other purposes.

S. 1333. An act to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges.

S. 2106. An act to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.

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

S. 2246. An act to amend the Act which establish the Federal Law Olmstead National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, 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. 2413. An act providing the conveyance of Woodland Lake Park tract in Apache-Sitgreaves National Forest in the State of Arizona unless the conveyance is made to the town of Pinetop-Lakeside or is authorized by Act of Congress.

S. 2427. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work.

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

S.J. Res. 58. Joint resolution recognizing the accomplishments of Inspectors General since their creation in 1978 in preventing and detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government.

MESSAGES FROM THE HOUSE

At 4:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 145. Joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 134. Joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the joint resolution (S.J. Res. 44) proposing an amendment to the Constitution of the United States to protect the rights of crime victims (Rept. No. 105–409).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources: Report to accompanying the bill (H.R. 3687) to authorize prepayment of amounts due under a water reclamation project contract for the Canadian River Project, Texas (Rept. No. 105–410).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1427: A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve lowpower television stations that provide community broadcasting, and for other purposes (Rept. No. 105–411).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. DURBIN:

S. 2625. A bill to impose restrictions on the sale of cigars; to the Committee on Commerce, Science, and Transportation.

By Mr. TORRICELLI:

S. 2626. A bill to amend title XIX of the Social Security Act to provide a children's enrollment performance bonus; to the Committee on Finance.

By Mr. TORRICELLI:

S. 2627. A bill to amend the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and nonpowder firearms; to the Committee on the Judiciary.

By Mr. MACK:

S. 2628. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals subject to Federal hours of service; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI:

S. 2626. A bill to amend title XIX of the Social Security Act to provide a children's enrollment performance bonus; to the Committee on Finance.

THE HEALTH CARE FOR AMERICA'S CHILDREN ACT OF 1998

• Mr. TORRICELLI. Mr. President, during last year's passage of the balanced budget agreement, Congress achieved a great victory. We created a new $24 billion program to fund children's health—the State Children's Health Insurance Program.

Even with that historic effort, our work is far from finished. There are 10 million children in this country without health insurance. But even more troubling is that nearly half of these children are eligible for Medicaid health coverage yet remain unenrolled.

This is the great tragedy of Medicaid. Barriers to enrollment like complicated application forms, inaccessible sign-up procedures, and demeaning eligibility processes are preventing families from enrolling their kids. A recent report by the Agency for Health Care Policy and Research (AHCPR) stressed the need for states to engage in outreach activities to increase enrollment of Medicaid-eligible children. Likewise, President Clinton recently identified Medicaid outreach as a high priority of his administration.

The bill I am introducing today would go a long way toward getting these children enrolled. This bill, the Health Care for America's Children Act of 1998, would create an incentive program to reward states who engage in outreach activities to enroll the 4.7 million uninsured children who are eligible for Medicaid. States who employ effective outreach activities like shortened and simplified applications, presumptive and continuous eligibility, and outstationing of eligibility workers in schools and day care centers, would be eligible for a performance bonus.

State adoption of these outreach activities is critical to removing the barriers to enrollment and ensuring that all eligible children get the Medicaid health insurance to which they are already entitled. According to the Congressional Budget Office (CBO), adoption of these outreach measures would increase the number of children enrolled in Medicaid by 700,000 each year after the year 2000. That means that by the year 2007, we could have all eligible children covered.

Lack of health insurance can be devastating to the health status of children. Children without health insurance are four times more likely to go without needed medical or surgical care. And children without health care are less likely to grow up to be healthy productive adults, less likely to receive timely preventive care, and less likely to receive treatment even for serious illnesses.

Unmet health care needs also translate into higher costs over the long run. Uninsured children are more likely to need emergency room care at twice the cost of office-based care. Each dollar invested in immunization saves $7.40 in future medical costs.

Ensuring that children have access to health care is an investment in our future. Over 10 million uninsured children in this country is a crisis. But it is a travesty that we have the means to cover almost half of these children and are failing to do so. In the words of Albert Camus (CAM–OO), "perhaps we cannot prevent this from being our world which children suffer, but we can lessen the number of suffering children."

Mr. President, I ask that the Health Care for America's Children Act of 1998 be included in its entirety in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2626

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 "Health Care for America's Children Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Over 10,000,000 children in the United States, 1 in 7, lack health insurance coverage.

(2) Nearly half of those children (4,700,000) are eligible for health benefits coverage through the medicaid program but are not enrolled in that program.

(3) Children without health insurance coverage are 4 times more likely to go without needed medical or surgical care.

(4) One out of 5 children who are uninsured for a year or longer are missing all of their current immunizations.

(5) Children without health insurance are less likely to have a family doctor, less likely to receive timely preventive care, and less likely to receive treatment, even for serious illnesses.

(6) Uninsured children are more likely to need emergency room care at twice the cost of office-based care.

(7) A recent report by the Agency for Health Care Policy and Research (AHCPR) stressed the need for States to engage in outreach activities to increase the enrollment of medicaid-eligible children.

(8) Outreach activities like shortened and simplified applications, presumptive and continuous eligibility, and outstationing of eligibility workers in schools and day care centers have been found to be effective in getting medicaid-eligible children enrolled in the medicaid program.

SEC. 3. MEDICAID CHILDREN'S ENROLLMENT PERFORMANCE BONUS.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end the following:

"(x)(1) IN GENERAL.—Beginning with fiscal year 1999 and each fiscal year thereafter, in addition to any other payment under this title, the Secretary shall pay to each State that satisfies the requirements of paragraphs (2) and (3) a children's enrollment performance bonus under this subsection for such fiscal year in such amount as the Secretary shall determine.

"(2) DEMONSTRATION OF IMPLEMENTATION OF OUTREACH STRATEGIES.—A State shall demonstrate to the satisfaction of the Secretary that the State has a commitment to reach and enroll children who are eligible for medical assistance under, but not enrolled in, the State plan under this title through effective implementation of each of the following outreach activities:

"(A) STREAMLINED ELIGIBILITY PROCEDURES.—

"(i) IN GENERAL.—The State uses streamlined procedures described in clause (ii) for determining the eligibility for medical assistance under, and enrollment in, the State plan under this title of—

"(I) children in families with incomes that do not exceed the effective income level (expressed as a percent of the poverty line) that has been specified under such State plan (including under a waiver authorized by the Secretary or under section 1902(r)(2) for the child to be eligible for medical assistance under section 1902(l)(2) or 1905(n)(2) (as selected by a State) for the age of such child; and

"(II) children determined eligible for such assistance, and enrolled in the State plan under this title in accordance with the requirements of paragraphs (1) and (2) of section 1931(b).

"(ii) PROCEDURES DESCRIBED.—The streamlined procedures described in this clause include—

"(I) using shortened and simplified applications for the children described in clause (i);

"(II) eliminating the assets test for determining the eligibility of such children; and

"(III) allowing applications for such children to be submitted by mail or telephone.

"(B) CONTINUOUS ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for 12-months of continuous eligibility for children in accordance with section 1902(e)(12).

"(C) PRESUMPTIVE ELIGIBILITY FOR CHILDREN.—The State provides (or demonstrates to the satisfaction of the Secretary that, not later than fiscal year 2001, the State shall provide) for making medical assistance

available to children during a presumptive eligibility period in accordance with section 1920A.

"(D) OUTSTATIONING AND ALTERNATIVE APPLICATIONS.—The State complies with the requirements of section 1902(a)(55) (relating to outstationing of eligibility workers for the receipt and initial processing of applications for medical assistance and the use of alternative application forms).

"(E) SIMPLIFIED VERIFICATION OF ELIGIBILITY REQUIREMENTS.—The State demonstrates to the satisfaction of the Secretary that the State uses only the minimum level of verification requirements as are necessary for the State to ensure accurate eligibility determinations under the State plan under this title.

"(3) REPORT ON NUMBER OF ENROLLMENTS RESULTING FROM OUTREACH.—A State shall annually report to the Secretary on the number of full year equivalent children that are determined to be eligible for medical assistance under the State plan under this title and are enrolled under the plan as a result of—

"(A) having been provided presumptive eligibility in accordance with section 1920A;

"(B) having submitted an application for such assistance through an outstationed eligibility worker; and

"(C) having submitted an application for such assistance by mail or telephone.

"(4) NO SUBSTITUTION OF SPENDING.—Amounts paid to a State under this subsection shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this title or title XXI. Amounts provided to the State under any other provisions of this title shall not be reduced solely as a result of the State's eligibility for a performance bonus under this subsection.".●

By Mr. TORRICELLI:

S. 2627. A bill to amend the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and nonpowder firearms; to the Committee on the Judiciary.

FIREARMS SAFETY AND CONSUMER PROTECTION ACT OF 1998

● Mr. TORRICELLI. Mr. President, today I introduce the Firearms Safety and Consumer Protection Act of 1998. I am sure that this bill will face opposition, but I am equally sure that the need for this bill is so clear, and the logic so unquestionable, that we will soon see hunters, law enforcement agents and other gun consumers fighting for the passage of the legislation.

Mr. President, I have long fought against the gun injuries that have plagued America for years. We succeeded in enacting the Brady bill and the ban on devastating assault weapons. And in the 104th Congress, even in the midst of what many consider a hostile Congress, we told domestic violence offenders that they could no longer own a gun. These were each measures aimed at the criminal misuse of firearms.

But there is another subject that the NRA just hates to talk about—the countless injuries that occur to innocent gun owners, recreational hunters, and to law enforcement. Every year in this country, countless people die and many more are injured by defective or poorly manufactured firearms. Yet the Consumer Product Safety Commission, which has the power to regulate every other product sold to the American consumer, lacks the ability to regulate the manufacture of firearms.

Amazingly, in a nation that regulates everything from the air we breathe, to the cars we drive, the cribs that hold our children, the most dangerous consumer product sold, firearms, unregulated. Studies show that inexpensive safety technology and the elimination of flawed guns could prevent a third of accidental firearms deaths. Despite this fact, the Federal Government powerless to stop gun companies from distributing defective guns or failing to warn consumers of dangerous products.

Ths gaping loophole in our consumer protection laws can often be disastrous for gun users. To take just one recent example, even when a gun manufacturer discovered that it had sold countless defective guns with a tendency to misfire, no recall was mandated and no action could be taken by the Federal Government. The guns remained on the street, and consumers were defenseless. Time after time, consumers, hunters, and gun owners are each left out in the cold, without the knowledge of danger or the assistance necessary to protect themselves from it.

For too long now, the gun industry has successfully kept guns exempt from consumer protection laws, and we must finally bring guns into line with every other consumer product. Logic, common sense, and the many innocent victims of defective firearms all cry out for us to act—and act we must.

To that end, I am introducing the Firearms Safety and Consumer Protection Act, legislation giving the Secretary of the Treasury the power to regulate the manufacture, distribution, and sale of firearms and ammunition. The time has come to stop dangerous and defective guns from killing American consumers. I urge my colleagues to support this bill, and I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2627

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 "Firearms Safety and Consumer Protection Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—REGULATION OF FIREARM PRODUCTS

Sec. 101. Regulatory authority.
Sec. 102. Orders; inspections.

TITLE II—PROHIBITIONS

Sec. 201. Prohibitions.
Sec. 202. Inapplicability to governmental authorities.

TITLE III—ENFORCEMENT

SUBTITLE A—CIVIL ENFORCEMENT

Sec. 301. Civil penalties.
Sec. 302. Injunctive enforcement and seizure.
Sec. 303. Imminently hazardous firearms.
Sec. 304. Private cause of action.
Sec. 305. Private enforcement of this Act.
Sec. 306. Effect on private remedies.

SUBTITLE B—CRIMINAL ENFORCEMENT

Sec. 351. Criminal penalties.

TITLE IV—ADMINISTRATIVE PROVISIONS

Sec. 401. Firearm injury information and research.
Sec. 402. Annual report to Congress.

TITLE V—RELATIONSHIP TO OTHER LAW

Sec. 501. Subordination to the Arms Export Control Act.
Sec. 502. Effect on State law.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to protect the public against unreasonable risk of injury and death associated with firearms and related products;

(2) to develop safety standards for firearms and related products;

(3) to assist consumers in evaluating the comparative safety of firearms and related products;

(4) to promote research and investigation into the causes and prevention of firearm-related deaths and injuries; and

(5) to restrict the availability of weapons that pose an unreasonable risk of death or injury.

SEC. 3. DEFINITIONS.

(a) SPECIFIC TERMS.—In this Act:

(1) FIREARMS DEALER.—The term "firearms dealer" means—

(A) any person engaged in the business (as defined in section 921(a)(21)(C) of title 18, United States Code) of dealing in firearms at wholesale or retail;

(B) any person engaged in the business (as defined in section 921(a)(21)(D) of title 18, United States Code) of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; and

(C) any person who is a pawnbroker.

(2) FIREARM PART.—The term "firearm part" means—

(A) any part or component of a firearm as originally manufactured;

(B) any good manufactured or sold—

(i) for replacement or improvement of a firearm; or

(ii) as any accessory or addition to the firearm; and

(C) any good that is not a part or component of a firearm and is manufactured, sold, delivered, offered, or intended for use exclusively to safeguard individuals from injury by a firearm.

(3) FIREARM PRODUCT.—The term "firearm product" means a firearm, firearm part, nonpowder firearm, and ammunition.

(4) FIREARM SAFETY REGULATION.—The term "firearm safety regulation" means a regulation prescribed under this Act.

(5) FIREARM SAFETY STANDARD.—The term "firearm safety standard" means a standard promulgated under this Act.

(6) NONPOWDER FIREARM.—The term "nonpowder firearm" means a device specifically

designed to discharge BBs, pellets, darts, or similar projectiles by the release of stored energy.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or the designee of the Secretary.

(b) OTHER TERMS.—Each term used in this Act that is not defined in subsection (a) shall have the meaning (if any) given that term in section 921(a) of title 18, United States Code.

TITLE I—REGULATION OF FIREARM PRODUCTS

SEC. 101. REGULATORY AUTHORITY.

(a) IN GENERAL.—The Secretary shall prescribe such regulations governing the design, manufacture, and performance of, and commerce in, firearm products, consistent with this Act, as are reasonably necessary to reduce or prevent unreasonable risk of injury resulting from the use of those products.

(b) MAXIMUM INTERVAL BETWEEN ISSUANCE OF PROPOSED AND FINAL REGULATION.—Not later than 120 days after the date on which the Secretary issues a proposed regulation under subsection (a) with respect to a matter, the Secretary shall issue a regulation in final form with respect to the matter.

(c) PETITIONS.—

(1) IN GENERAL.—Any person may petition the Secretary to—

(A) issue, amend, or repeal a regulation prescribed under subsection (a) of this section; or

(B) require the recall, repair, or replacement of a firearm product, or the issuance of refunds with respect to a firearm product.

(2) DEADLINE FOR ACTION ON PETITION.—Not later than 120 days after the date on which the Secretary receives a petition referred to in paragraph (1), the Secretary shall—

(A) grant, in whole or in part, or deny the petition; and

(B) provide the petitioner with the reasons for granting or denying the petition.

SEC. 102. ORDERS; INSPECTIONS.

(a) AUTHORITY TO PROHIBIT MANUFACTURE, SALE, OR TRANSFER OF FIREARM PRODUCTS MADE, IMPORTED, TRANSFERRED, OR DISTRIBUTED IN VIOLATION OF REGULATION.—The Secretary may issue an order prohibiting the manufacture, sale, or transfer of a firearm product which the Secretary finds has been manufactured, or has been or is intended to be imported, transferred, or distributed in violation of a regulation prescribed under this Act.

(b) AUTHORITY TO REQUIRE THE RECALL, REPAIR, OR REPLACEMENT OF, OR THE PROVISION OF REFUNDS WITH RESPECT TO FIREARM PRODUCTS.—The Secretary may issue an order requiring the manufacturer of, and any dealer in, a firearm product which the Secretary determines poses an unreasonable risk of injury to the public, is not in compliance with a regulation prescribed under this Act, or is defective, to—

(1) provide notice of the risks associated with the product, and of how to avoid or reduce the risks, to—

(A) the public;

(B) in the case of the manufacturer of the product, each dealer in the product; and

(C) in the case of a dealer in the product, the manufacturer of the product and the other persons known to the dealer as dealers in the product;

(2) bring the product into conformity with the regulations prescribed under this Act;

(3) repair the product;

(4) replace the product with a like or equivalent product which is in compliance with those regulations;

(5) refund the purchase price of the product, or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use;

(6) recall the product from the stream of commerce; or

(7) submit to the Secretary a satisfactory plan for implementation of any action required under this subsection.

(c) AUTHORITY TO PROHIBIT MANUFACTURE, IMPORTATION, TRANSFER, DISTRIBUTION, OR EXPORT OF UNREASONABLY RISKY FIREARM PRODUCTS.—The Secretary may issue an order prohibiting the manufacture, importation, transfer, distribution, or export of a firearm product if the Secretary determines that the exercise of other authority under this Act would not be sufficient to prevent the product from posing an unreasonable risk of injury to the public.

(d) INSPECTIONS.—In order to ascertain compliance with this Act and the regulations and orders issued under this Act, the Secretary may, at reasonable times—

(1) enter any place in which firearm products are manufactured, stored, or held, for distribution in commerce, and inspect those areas where the products are manufactured, stored, or held; and

(2) enter and inspect any conveyance being used to transport a firearm product.

TITLE II—PROHIBITIONS

SEC. 201. PROHIBITIONS.

(a) FAILURE OF MANUFACTURER TO TEST AND CERTIFY FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a firearm product to transfer, distribute, or export a firearm product unless—

(1) the manufacturer has tested the product in order to ascertain whether the product is in conformity with the regulations prescribed under section 101;

(2) the product is in conformity with those regulations; and

(3) the manufacturer has included in the packaging of the product, and furnished to each person to whom the product is distributed, a certificate stating that the product is in conformity with those regulations.

(b) FAILURE OF MANUFACTURER TO PROVIDE NOTICE OF NEW TYPES OF FIREARM PRODUCTS.—It shall be unlawful for the manufacturer of a new type of firearm product to manufacture the product, unless the manufacturer has provided the Secretary with—

(1) notice of the intent of the manufacturer to manufacture the product; and

(2) a description of the product.

(c) FAILURE OF MANUFACTURER OR DEALER TO LABEL FIREARM PRODUCTS.—It shall be unlawful for a manufacturer of or dealer in firearms to transfer, distribute, or export a firearm product unless the product is accompanied by a label that contains—

(1) the name and address of the manufacturer of the product;

(2) the name and address of any importer of the product;

(3) a specification of the regulations prescribed under this Act that apply to the product; and

(4) the certificate required by subsection (a)(3) with respect to the product.

(d) FAILURE TO MAINTAIN OR PERMIT INSPECTION OF RECORDS.—It shall be unlawful for an importer of, manufacturer of, or dealer in a firearm product to fail to—

(1) maintain such records, and supply such information, as the Secretary may require in order to ascertain compliance with this Act and the regulations and orders issued under this Act; and

(2) permit the Secretary to inspect and copy those records at reasonable times.

(e) IMPORTATION AND EXPORTATION OF UNCERTIFIED FIREARM PRODUCTS.—It shall be unlawful for any person to import into the United States or export a firearm product that is not accompanied by the certificate required by subsection (a)(3).

(f) COMMERCE IN FIREARM PRODUCTS IN VIOLATION OF ORDER ISSUED OR REGULATION PRESCRIBED UNDER THIS ACT.—It shall be unlawful for any person to manufacture, offer for sale, distribute in commerce, import into the United States, or export a firearm product—

(1) that is not in conformity with the regulations prescribed under this Act; or

(2) in violation of an order issued under this Act.

(g) STOCKPILING.—It shall be unlawful for any person to manufacture, purchase, or import a firearm product, after the date a regulation is prescribed under this Act with respect to the product and before the date the regulation takes effect, at a rate that is significantly greater than the rate at which the person manufactured, purchased, or imported the product during a base period (prescribed by the Secretary in regulations) ending before the date the regulation is so prescribed.

SEC. 202. INAPPLICABILITY TO GOVERNMENTAL AUTHORITIES.

Section 201 does not apply to any department or agency of the United States, of a State, or of a political subdivision of a State, or to any official conduct of any officer or employee of such a department or agency.

TITLE III—ENFORCEMENT

Subtitle A—Civil Enforcement

SEC. 301. CIVIL PENALTIES.

(a) AUTHORITY TO IMPOSE FINES.—

(1) IN GENERAL.—The Secretary shall impose upon any person who violates section 201 a civil fine in an amount that does not exceed the applicable amount described in subsection (b).

(2) SCOPE OF OFFENSE.—Each violation of section 201 (other than of subsection (a)(3) or (d) of that section) shall constitute a separate offense with respect to each firearm product involved.

(b) APPLICABLE AMOUNT.—

(1) FIRST 5-YEAR PERIOD.—The applicable amount for the 5-year period immediately following the date of enactment of this Act is $5,000.

(2) THEREAFTER.—The applicable amount during any time after the 5-year period described in paragraph (1) is $10,000.

SEC. 302. INJUNCTIVE ENFORCEMENT AND SEIZURE.

(a) INJUNCTIVE ENFORCEMENT.—Upon request of the Secretary, the Attorney General of the United States may bring an action to restrain any violation of section 201 in the United States district court for any district in which the violation has occurred, or in which the defendant is found or transacts business.

(b) CONDEMNATION.—

(1) IN GENERAL.—Upon request of the Secretary, the Attorney General of the United States may bring an action in rem for condemnation of a qualified firearm product in the United States district court for any district in which the Secretary has found and seized for confiscation the product.

(2) QUALIFIED FIREARM PRODUCT DEFINED.—In paragraph (1), the term "qualified firearm product" means a firearm product—

(A) that is being transported or having been transported remains unsold, is sold or offered for sale, is imported, or is to be exported; and

(B)(i) that is not in compliance with a regulation prescribed or an order issued under this Act; or

(ii) with respect to which relief has been granted under section 303.

SEC. 303. IMMINENTLY HAZARDOUS FIREARMS.

(a) IN GENERAL.—Notwithstanding the pendency of any other proceeding in a court of the United States, the Secretary may bring an action in a United States district court to restrain any person who is a manufacturer of, or dealer in, an imminently hazardous firearm product from manufacturing, distributing, transferring, importing, or exporting the product.

(b) IMMINENTLY HAZARDOUS FIREARM PRODUCT.—In subsection (a), the term "imminently hazardous firearm product" means any firearm product with respect to which the Secretary determines that—

(1) the product poses an unreasonable risk of injury to the public; and

(2) time is of the essence in protecting the public from the risks posed by the product.

(c) RELIEF.—In an action brought under subsection (a), the court may grant such temporary or permanent relief as may be necessary to protect the public from the risks posed by the firearm product, including—

(1) seizure of the product; and

(2) an order requiring—

(A) the purchasers of the product to be notified of the risks posed by the product;

(B) the public to be notified of the risks posed by the product; or

(C) the defendant to recall, repair, or replace the product, or refund the purchase price of the product (or, if the product is more than 1 year old, a lesser amount based on the value of the product after reasonable use).

(d) VENUE.—An action under subsection (a)(2) may be brought in the United States district court for the District of Columbia or for any district in which any defendant is found or transacts business.

SEC. 304. PRIVATE CAUSE OF ACTION.

(a) IN GENERAL.—Any person aggrieved by any violation of this Act or of any regulation prescribed or order issued under this Act by another person may bring an action against such other person in any United States district court for damages, including consequential damages. In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

(b) RULE OF INTERPRETATION.—The remedy provided for in subsection (a) shall be in addition to any other remedy provided by common law or under Federal or State law.

SEC. 305. PRIVATE ENFORCEMENT OF THIS ACT.

Any interested person may bring an action in any United States district court to enforce this Act, or restrain any violation of this Act or of any regulation prescribed or order issued under this Act. In any action under this section, the court, in its discretion, may award to a prevailing plaintiff a reasonable attorney's fee as part of the costs.

SEC. 306. EFFECT ON PRIVATE REMEDIES.

(a) IRRELEVANCY OF COMPLIANCE WITH THIS ACT.—Compliance with this Act or any order issued or regulation prescribed under this Act shall not relieve any person from liability to any person under common law or State statutory law.

(b) IRRELEVANCY OF FAILURE TO TAKE ACTION UNDER THIS ACT.—The failure of the Secretary to take any action authorized under this Act shall not be admissible in litigation relating to the product under common law or State statutory law.

Subtitle B—Criminal Enforcement

SEC. 351. CRIMINAL PENALTIES.

Any person who has received from the Secretary a notice that the person has violated a provision of this Act or of a regulation prescribed under this Act with respect to a firearm product and knowingly violates that provision with respect to the product shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

TITLE IV—ADMINISTRATIVE PROVISIONS

SEC. 401. FIREARM INJURY INFORMATION AND RESEARCH.

(a) IN GENERAL.—The Secretary shall—

(1) maintain a Firearm Injury Information Clearinghouse to collect, investigate, analyze, and disseminate data and information relating to the causes and prevention of death and injury associated with firearms;

(2) conduct continuing studies and investigations of firearm-related deaths and injuries and the resulting economic costs and losses;

(3) collect and maintain current production and sales figures for each person registered as a manufacturer under the Gun Control Act;

(4) conduct research on, studies of, and investigation into the safety of firearm products and improving the safety of firearm products; and

(5) develop firearm safety testing methods and testing devices.

(b) AVAILABILITY OF INFORMATION.—On a regular basis, but not less frequently than annually, the Secretary shall make available to the public the results of the activities of the Secretary under paragraphs (1), (2), and (3) of subsection (a).

SEC. 402. ANNUAL REPORT TO CONGRESS.

(a) IN GENERAL.—The Secretary shall prepare and submit to the President and Congress at the beginning of each regular session of Congress, a comprehensive report on the administration of this Act for the most recently completed fiscal year.

(b) CONTENTS.—Each report submitted under subsection (a) shall include—

(1) a thorough appraisal, including statistical analyses and projections, of the incidence of injury and death and effects on the population resulting from firearm products, with a breakdown, as practicable, among the various types of such products associated with the injuries and deaths;

(2) a list of firearm safety regulations prescribed that year;

(3) an evaluation of the degree of compliance with firearm safety regulations, including a list of enforcement actions, court decisions, and settlements of alleged violations, by name and location of the violator or alleged violator, as the case may be;

(4) a summary of the outstanding problems hindering enforcement of this Act, in the order of priority; and

(5) a log and summary of meetings between the Secretary or employees of the Secretary and representatives of industry, interested groups, or other interested parties.

TITLE V—RELATIONSHIP TO OTHER LAW

SEC. 501. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

In the event of any conflict between any provision of this Act and any provision of the Arms Export Control Act, the provision of the Arms Export Control Act shall control.

SEC. 502. EFFECT ON STATE LAW.

(a) IN GENERAL.—This Act shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law regulating or prohibiting conduct with respect to a firearm product, except to the extent that such provision of law is inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(b) RULE OF CONSTRUCTION.—A provision of State law is not inconsistent with this Act if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this Act.•

By Mr. MACK:

S. 2628. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business and meal expenses for individuals subject to Federal hours of service; to the Committee on Finance.

TAX DEDUCTIBILITY OF BUSINESS MEAL EXPENSES

• Mr. MACK. Mr. President, last year in the Taxpayer Relief Act of 1997, we included a provision to correct an unfair and unsound tax policy of the Clinton administration concerning business meal deductions. The 1993 Clinton tax increases included a reduction in the percentage of business meal expenses that could be deducted, from 80 percent down to 50 percent. The administration marketed this as an attack on the "three martini lunch," but the tax increase was in fact a big blow to the wallets and pocketbooks of working class Americans whose jobs require them to be stranded far from home.

Workers who are covered by federal "hours of service" regulations—long-haul truckers, airline flight attendants and pilots, long distance bus drivers, some merchant mariners and railroad workers—have no choice but to eat their meals on the road. Their meal expenses are a necessary and unavoidable part of their jobs. The Clinton administration's business meal tax increase hit these occupations hard. For the average trucker, making between $32,000 and $36,000 annually, this tax increase might be greater than $1,000 per year. This is a lot of money to these hard-working taxpayers.

Congress addressed this inequity last year, passing a provision that would gradually raise the meal deduction percentage back to 80 percent for these workers. But a slow, gradual fix is not good enough. Today I am introducing a bill that would immediately restore the 80 percent deduction for truckers, flight crews, and other workers limited by the federal "hours of service" regulations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2628

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

SECTION 1. INCREASED DEDUCTIBILITY OF BUSINESS MEAL EXPENSES FOR INDIVIDUALS SUBJECT TO FEDERAL LIMITATIONS ON HOURS OF SERVICE.

(a) IN GENERAL.—Paragraph (3) of section 274(n) of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended to read as follows:

"(3) SPECIAL RULE FOR INDIVIDUALS SUBJECT TO FEDERAL HOURS OF SERVICE.—In the case of any expenses for food or beverages consumed while away from home (within the meaning of section 162(a)(2)) by an individual during, or incident to, the period of duty subject to the hours of service limitations of the Department of Transportation, paragraph (1) shall be applied by substituting '80 percent' for '50 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.●

ADDITIONAL COSPONSORS

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

AMENDMENTS SUBMITTED

COAST GUARD AUTHORIZATION ACT OF 1998

SNOWE AMENDMENT NO. 3813

Mr. JEFFORDS (for Ms. SNOWE) proposed an amendment to the bill (H.R. 2204) to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act for Fiscal Years 1998, 1999, and 2000".

SEC. 2. TABLE OF SECTIONS.

The table of sections for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of sections.

Title I—Appropriations; Authorized Levels

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
Sec. 103. LORAN–C.

Title II—Coast Guard Management

Sec. 201. Severance pay.
Sec. 202. Authority to implement and fund certain awards programs.
Sec. 203. Use of appropriated funds for commercial vehicles at military funerals.
Sec. 204. Authority to reimburse Novato, California, Reuse Commission.
Sec. 205. Eliminate supply fund reimbursement requirements.
Sec. 206. Disposal of certain material to Coast Guard Auxiliary.
Sec. 207. Law enforcement authority for special agents of the Coast Guard Investigative Service.
Sec. 208. Report on excess Coast Guard property.
Sec. 209. Fees for navigation assistance services.
Sec. 210. Aids to navigation report.

Title III—Marine Safety and Environmental Protection

Sec. 301. Alcohol testing.
Sec. 302. Penalty for violation of international safety convention.
Sec. 303. Protect marine casualty investigations from mandatory release.
Sec. 304. Eliminate biennial research and development report.
Sec. 305. Extension of territorial sea for certain laws.
Sec. 306. Safety management code report and policy.
Sec. 307. Oil and hazardous substance definition and report.
Sec. 308. National Marine Transportation System.
Sec. 309. Availability and use of EPIRBS for recreational vessels.
Sec. 310. Search and rescue helicopter coverage.
Sec. 311. Petroleum transportation.
Sec. 312. Seasonal Coast Guard helicopter air rescue capability.
Sec. 313. Ship reporting systems.
Sec. 314. Interim authority for dry bulk cargo residue disposal.

Title IV—Miscellaneous

Sec. 401. Vessel identification system amendments.
Sec. 402. Conveyance of lighthouses.
Sec. 403. Administrative authority to convey lighthouses.
Sec. 404. Conveyance of Communication Station Boston Marshfield Receiver site, Massachusetts.
Sec. 405. Conveyance of Nahant Parcel, Essex County, Massachusetts.
Sec. 406. Conveyance of Coast Guard Station Ocracoke, North Carolina.
Sec. 407. Conveyance of Loran Station Nantucket.
Sec. 408. Conveyance of Reserve training facility, Jacksonville, Florida.
Sec. 409. Conveyance of decommissioned Coast Guard vessels.
Sec. 410. Amendment to conveyance of vessel S/S Red Oak Victory.
Sec. 411. Transfer of Ocracoke Light Station to Secretary of the Interior.
Sec. 412. Vessel documentation clarification.
Sec. 413. Sanctions for failure to land or to heave to; sanctions for obstruction of boarding and providing false information.
Sec. 414. Dredge clarification.
Sec. 415. Great Lakes Pilotage Advisory Committee.
Sec. 416. Documentation of certain vessels.
Sec. 417. Double hull alternative designs study.
Sec. 418. Report on maritime activities.
Sec. 419. Vessel sharing agreements.
Sec. 420. Report on SWATH technology.
Sec. 421. Report on tonnage calculation methodology.
Sec. 422. Authority to convey National Defense Reserve Fleet Vessel, American Victory.
Sec. 423. Authority to convey National Defense Reserve Fleet Vessel, John Henry.
Sec. 424. Authorized number of NOAA Corps commissioned officers.
Sec. 425. Coast Guard City, USA
Sec. 426. Marine transportation flexibility.

Title V—Administrative Process for Jones Act Waivers

Sec. 501. Findings.
Sec. 502. Administrative waiver of coastwise trade laws.
Sec. 503. Revocation.
Sec. 504. Definitions.

Title VI—Harmful Algal Blooms and Hypoxia

Sec. 601. Short title.
Sec. 602. Findings.
Sec. 603. Assessments.
Sec. 604. Northern Gulf of Mexico hypoxia.
Sec. 605. Authorization of appropriations.
Sec. 606. Amendment to National Sea Grant College Program Act.
Sec. 607. Amendment to the Coastal Zone Management Act.

Title VII—Additional Miscellaneous Provisions

Sec. 701. Applicability of authority to release restrictions and encumbrances.

TITLE I—APPROPRIATIONS; AUTHORIZED LEVELS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1998.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1998, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,715,400,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $397,850,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000 to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $653,196,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $17,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

(b) FISCAL YEAR 1999.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1999, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,808,000,000, of which

$25,000,000 shall be derived from the Oil Spill Liability Trust Fund and of which not less than $408,000,000 shall be available for expenses related to drug interdiction.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $505,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 and of which not less than $62,000,000 shall be available for expenses related to drug interdiction.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and cue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanoraphic research, and defense readiness, $18,300,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $691,493,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

(c) FISCAL YEAR 2000.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2000, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,880,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund and of which not less than $408,000,000 shall be available for expenses related to drug interdiction.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $665,969,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, and of which not less than $62,000,000 shall be available for expenses related to drug interdiction.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $23,050,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $730,327,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the bridge alteration program, $26,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities functions (other than parts and equipment associated with operations and maintenance), $21,000,000, to remain available until expended.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) 1998 END-OF-YEAR STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 37,944 as of September 30, 1998.

(b) 1998 MILITARY TRAINING STUDENT LOADS.—For fiscal year 1998, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,424 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 814 student years.

(c) 1999 END-OF-YEAR STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,038 as of September 30, 1999.

(d) 1999 MILITARY TRAINING STUDENT LOADS.—For fiscal year 1999, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,424 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 810 student years.

(e) 2000 END-OF-YEAR STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,313 as of September 30, 2000.

(f) 2000 MILITARY TRAINING STUDENT LOADS.—For fiscal year 2000, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,424 student years.

(2) For flight training, 98 student years.

(3) For professional training in military and civilian institutions, 283 student years.

(4) For officer acquisition, 825 student years.

SEC. 103. LORAN-C.

(a) FISCAL YEARS 1999 AND 2000.—There are authorized to be appropriated to the Department of Transportation, in addition to the funds authorized for the Coast Guard for operation of the LORAN-C System, for capital expenses related to LORAN-C navigation infrastructure, $10,000,000 for fiscal year 1999, and $35,000,000 for fiscal year 2000. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on cost-sharing arrangements among Federal agencies for such capital expenses related to LORAN-C navigation infrastructure, including, but not limited to, the Coast Guard and the Federal Aviation Administration.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. SEVERANCE PAY.

(a) WARRANT OFFICERS.—Section 286a(d) of title 14, United States Code, is amended by striking the last sentence.

(b) SEPARATED OFFICERS.—Section 286a of title 14, United States Code, is amended by striking the period at the end of subsection (b) and inserting ", unless the Secretary of the Service in which the Coast Guard is operating determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.".

(c) EXCEPTION.—Section 327 of title 14, United States Code, is amended by striking the period at the end of paragraph (b)(3) and inserting ", unless the Secretary determines that the conditions under which the officer is discharged or separated do not warrant payment of that amount of severance pay.".

SEC. 202. AUTHORITY TO IMPLEMENT AND FUND CERTAIN AWARDS PROGRAMS.

(a) Section 93 of title 14, United States Code, is amended—

(1) by striking "and" after the semicolon at the end of paragraph (u);

(2) by striking the period at the end of paragraph (v) and inserting "; and "; and

(3) by adding at the end the following new paragraph:

"(w) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including but not limited to state and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation).".

SEC. 203. USE OF APPROPRIATED FUNDS FOR COMMERCIAL VEHICLES AT MILITARY FUNERALS.

Section 93 of title 14, United States Code, as amended by section 202 of this Act, is further amended—

(1) by striking "and" after the semicolon at the end of paragraph (v);

(2) by striking the period at the end of paragraph (w) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(x) rent or lease, under such terms and conditions as are deemed advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.".

SEC. 204. AUTHORITY TO REIMBURSE NOVATO, CALIFORNIA, REUSE COMMISSION.

The Commandant of the United States Coast Guard may use up to $25,000 to provide economic adjustment assistance for the City of Novato, California, for the cost of revising the Hamilton Reuse Planning Authority's reuse plan as a result of the Coast Guard's request for housing at Hamilton Air Force Base. If the Department of Defense provides such economic adjustment assistance to the City of Novato on behalf of the Coast Guard, then the Coast Guard may use the amount authorized for use in the preceding sentence

to reimburse the Department of Defense for the amount of economic adjustment assistance provided to the City of Novato by the Department of Defense.

SEC. 205. ELIMINATE SUPPLY FUND REIMBURSEMENT REQUIREMENT.

Subsection 650(a) of title 14, United States Code, is amended by striking the last sentence and inserting "In these regulations, whenever the fund is reduced to delete items stocked, the Secretary may reduce the existing capital of the fund by the value of the materials transferred to other Coast Guard accounts. Except for the materials so transferred, the fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof.".

SEC. 206. DISPOSAL OF CERTAIN MATERIAL TO COAST GUARD AUXILIARY.

(a) Section 641 of title 14, United States Code, is amended—

(1) by striking "to the Coast Guard Auxiliary, including any incorporated unit thereof," in subsection (a); and

(2) by adding at the end thereof the following:

"(f)(1) Notwithstanding any other law, the Commandant may directly transfer ownership of personal property of the Coast Guard to the Coast Guard Auxiliary (including any incorporated unit thereof), with or without charge, if the Commandant determines—

"(A) after consultation with the Administrator of General Services, that the personal property is excess to the needs of the Coast Guard but is suitable for use by the Auxiliary in performing Coast Guard functions, powers, duties, roles, missions, or operations as authorized by law pursuant to section 822 of this title; and

"(B) that such excess property will be used solely by the Auxiliary for such purposes.

"(2) Upon transfer of personal property under paragraph (1), no appropriated funds shall be available for the operation, maintenance, repair, alteration, or replacement of such property, except as permitted by section 830 of this title.".

SEC. 207. LAW ENFORCEMENT AUTHORITY FOR SPECIAL AGENTS OF THE COAST GUARD INVESTIGATIVE SERVICE.

(a) AUTHORITY.—Section 95 of title 14, United States Code, is amended to read as follows:

"§ 95. Special agents of the Coast Guard Investigative Service law enforcement authority

"(a)(1) A special agent of the Coast Guard Investigative Service designated under subsection (b) has the following authority:

"(A) To carry firearms.

"(B) To execute and serve any warrant or other process issued under the authority of the United States.

"(C) To make arrests without warrant for—

"(i) any offense against the United States committed in the agent's presence; or

"(ii) any felony cognizable under the laws of the United States if the agent has probable cause to believe that the person to be arrested has committed or is committing the felony.

"(2) The authorities provided in paragraph (1) shall be exercised only in the enforcement of statutes for which the Coast Guard has law enforcement authority, or in exigent circumstances.

"(b) The Commandant may designate to have the authority provided under subsection (a) any special agent of the Coast Guard Investigative Service whose duties include conducting, supervising, or coordinating investigation of criminal activity in programs and operations of the United States Coast Guard.

"(c) The authority provided under subsection (a) shall be exercised in accordance with guidelines prescribed by the Commandant and approved by the Attorney General and any other applicable guidelines prescribed by the Secretary of Transportation or the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by striking the item related to section 95 and inserting the following:

"95. Special agents of the Coast Guard Investigative Service law enforcement authority.".

SEC. 208. REPORT ON EXCESS COAST GUARD PROPERTY.

Not later than 9 months after the date of enactment of this Act, the Administrator of the General Services Administration and the Commandant of the Coast Guard shall submit to the Congress a report on the current procedures used to dispose of excess Coast Guard property and provide recommendations to improve such procedures. The recommendations shall take into consideration measures that would—

(1) improve the efficiency of such procedures;

(2) improve notification of excess property decisions to and enhance the participation in the property disposal decisionmaking process of the States, local communities, and appropriate non-profit organizations;

(3) facilitate the expeditious transfer of excess property for recreation, historic preservation, education, transportation, or other uses that benefit the general public; and

(4) ensure that the interests of Federal taxpayers are protected.

SEC. 209. FEES FOR NAVIGATION ASSISTANCE SERVICE.

Section 2110 of title 46, United States Code, is amended by adding at the end thereof the following:

"(k) The Secretary may not plan, implement or finalize any regulation that would promulgate any new maritime user fee which was not implemented and collected prior to January 1, 1998, including a fee or charge for any domestic icebreaking service or any other navigational assistance service. This subsection expires on September 30, 2000.".

SEC. 210. AIDS TO NAVIGATION REPORT.

Not later than 18 months after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report on the use of the Coast Guard's aids to navigation system. The report shall include an analysis of the respective use of the aids to navigation system by commercial interests, members of the general public for personal recreation, Federal and State government for public safety, defense, and other similar purposes. To the extent practicable within the time allowed, the report shall include information regarding degree of use of the various portions of the system.

TITLE III—MARINE SAFETY AND ENVIRONMENTAL PROTECTION

SEC. 301. ALCOHOL TESTING.

(a) ADMINISTRATIVE PROCEDURE.—Section 7702 of title 46, United States Code, is amended by striking the second sentence of subsection (c)(2) and inserting the following: "The testing may include preemployment (with respect to dangerous drugs only), periodic, random, and reasonable cause testing, and shall include post-accident testing.".

(b) INCREASE IN CIVIL PENALTY.—Section 2115 of title 46, United States Code, is amended by striking "$1,000" and inserting "$5,000".

(c) INCREASE IN NEGLIGENCE PENALTY.—Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000 for a first violation and not more than $5,000 for a subsequent violation; or" and inserting "$5,000; or".

(d) POST SERIOUS MARINE INCIDENT TESTING.—

(1) Chapter 23 of title 46, United States Code, is amended by inserting after section 2303 the following:

§ 2303a. Post serious marine incident alcohol testing

"(a) The Secretary shall establish procedures to ensure that after a serious marine incident occurs, alcohol testing of crew members or other persons responsible for the operation or other safety-sensitive functions of the vessel or vessels involved in such incident is conducted no later than 2 hours after the incident occurs, unless such testing cannot be completed within that time due to safety concerns directly related to the incident.

"(b) The procedures in subsection (a) shall require that if alcohol testing cannot be completed within 2 hours of the occurrence of the incident, such testing shall be conducted as soon thereafter as the safety concerns in subsection (a) have been adequately addressed to permit such testing, except that such testing may not be required more than 8 hours after the incident occurs.".

(2) The table of sections at the beginning of chapter 23 of the title 46, United States Code, is amended by inserting after the item related to section 2303 the following:

2303a. Post serious marine incident alcohol testing"

SEC. 302. PENALTY FOR VIOLATION OF INTERNATIONAL CONVENTION.

Section 2302 of title 46, United States Code, is amended by adding at the following new subsection:

"(e)(1) A vessel may not be used to transport cargoes sponsored by the United States Government if the vessel has been detained by the Secretary for violation of an applicable international convention to which the United States is a party, and the Secretary has published notice of that detention.

"(2) The prohibition in paragraph (1) expires for a vessel 1 year after the date of the detention on which the prohibition is based or upon the Secretary granting appeal of the detention on which the prohibition is based.

"(3) The Secretary may grant an exemption from the prohibition in paragraph (1) on a case by case basis if the owner of the vessel to be used for transport of the cargo sponsored by the United States Government can provide compelling evidence that the vessel was detained due to circumstances beyond the owner's control and that the vessel is currently in compliance with applicable international conventions to which the United States is a party.

"(4) As used in this subsection, the term 'cargo sponsored by the United States Government' means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.".

SEC. 303. PROTECT MARINE CASUALTY INVESTIGATIONS FROM MANDATORY RELEASE.

Section 6305(b) of title 46, United States Code, is amended by striking all after "public" and inserting a period and "This subsection does not require the release of information described by section 552(b) of title 5

or protected from disclosure by another law of the United States.".

SEC. 304. ELIMINATE BIENNIAL RESEARCH AND DEVELOPMENT REPORT.

Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended by striking subsection (e) and by redesignating subsection (f) as subsection (e).

SEC. 305. EXTENSION OF TERRITORIAL SEA FOR CERTAIN LAWS.

(a) PORTS AND WATERWAYS SAFETY ACT.—Section 102 of the Ports and Waterways Safety Act (33 U.S.C. 1222) is amended by adding at the end the following:

"(5) 'Navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(b) SUBTITLE II OF TITLE 46.—

(1) Section 2101 of title 46, United States Code, is amended—

(A) by redesignating paragraph (17a) as paragraph (17b); and

(B) by inserting after paragraph (17) the following:

"(17a) 'navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.".

(2) Section 2301 of that title is amended by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)" after "of the United States".

(3) Section 4102(e) of that title is amended by striking "operating on the high seas" and inserting "owned in the United States and operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured".

(4) Section 4301(a) of that title is amended by inserting "(including the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988)" after "of the United States".

(5) Section 4502(a)(7) of that title is amended by striking "on the high seas" and inserting "beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States".

(6) Section 4506(b) of that title is amended by striking paragraph (2) and inserting the following:

"(2) is operating—

"(A) in internal waters of the United States; or

"(b) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.".

(7) Section 8502(a)(3) of that title is amended by striking "not on the high seas" and inserting "not beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured".

(8) Section 8503(a)(2) of that title is amended by striking paragraph (2) and inserting the following:

"(2) operating—

"(A) in internal waters of the United States; or

"(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.".

SEC. 306. SAFETY MANAGEMENT CODE REPORT AND POLICY.

(a) IN GENERAL.—Chapter 32 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 3206. Report and policy

"(a) REPORT ON IMPLEMENTATION AND ENFORCEMENT OF THE INTERNATIONAL SAFETY MANAGEMENT CODE.—

"(1) The Secretary shall conduct a study—

"(A) reporting on the status of implementation of the International Safety Management Code (hereinafter referred to in this section as 'Code');

"(B) detailing enforcement actions involving the Code, including the role documents and reports produced pursuant to the Code play in such enforcement actions;

"(C) evaluating the effects the Code has had on marine safety and environmental protection, and identifying actions to further promote marine safety and environmental protection through the Code;

"(D) identifying actions to achieve full compliance with and effective implementation of the Code; and

"(E) evaluating the effectiveness of internal reporting and auditing under the Code, and recommending actions to ensure the accuracy and candidness of such reporting and auditing. These recommended actions may include proposed limits on the use in legal proceedings of documents produced pursuant to the Code.

"(2) The Secretary shall provide opportunity for the public to participate in and comment on the study conducted under paragraph (1).

"(3) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 1998, 1999, and 2000, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1).

"(b) POLICY.—

"(1) Not later than 9 months after submission of the report in subsection (a)(3), the Secretary shall develop a policy to achieve full compliance with and effective implementation of the Code. The policy may include—

"(A) enforcement penalty reductions and waivers, limits on the use in legal proceedings of documents produced pursuant to the Code, or other incentives to ensure accurate and candid reporting and auditing;

"(B) any other measures to achieve full compliance with and effective implementation of the Code; and

"(C) if appropriate, recommendations to Congress for any legislation necessary to implement one or more elements of the policy.

"(2) The Secretary shall provide opportunity for the public to participate in the development of the policy in paragraph (1).

"(3) Upon completion of the policy in paragraph (1), the Secretary shall publish the policy in the Federal Register and provide opportunity for public comment on the policy.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 31 of title 46, United States Code, is amended by inserting after the item relating to section 3205 the following:

"3206. Report and policy".

SEC. 307. OIL AND HAZARDOUS SUBSTANCE DEFINITION AND REPORT.

(a) DEFINITION OF OIL.—Section 1001(23) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(23)) is amended to read as follows:

"(23) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include any substance which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act;".

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Congress on the status of the joint evaluation by the Coast Guard and the Environmental Protection Agency of the substances to be classified as oils under the Clean Water Act and Title I of the Oil Pollution Act of 1990, including opportunities provided for public comment on the evaluation.

SEC. 308. NATIONAL MARINE TRANSPORTATION SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation, through the Coast Guard and the Maritime Administration, shall, in consultation with the National Ocean Service of the National Oceanic and Atmospheric Administration and other interested Federal agencies and departments, establish a task force to assess the adequacy of the nation's marine transportation system (ports, waterways, and their intermodal connections) to operate in a safe, efficient, secure, and environmentally sound manner.

(b) TASK FORCE.—

(1) The task force shall be chaired by the Secretary of Transportation or his designee and may be comprised of the representatives of interested Federal agencies and departments and such other non-federal entities as the Secretary deems appropriate.

(2) The provisions of the Federal Advisory Committee Act shall not apply to the task force.

(c) ASSESSMENT.—

(1) In carrying out the assessment under this section, the task force shall examine critical issues and develop strategies, recommendations, and a plan for action. Pursuant to such examination and development, the task force shall—

(A) take into account the capability of the marine transportation system to accommodate projected increases in foreign and domestic traffic over the next 20 years;

(B) consult with senior public and private sector officials, including the users of that system, such as ports, commercial carriers, shippers, labor, recreational boaters, fishermen, and environmental organizations; and

(C) sponsor public and private sector activities to further refine and implement the strategies, recommendations, and plan for action.

(2) The Secretary shall report to Congress on the results of the assessment no later than March 31, 1999. The report shall reflect the views of both the public and private sectors. The Task Force shall cease to exist upon submission of the report in this paragraph.

SEC. 309. AVAILABILITY AND USE OF EPIRBS FOR RECREATIONAL VESSELS.

The Secretary of Transportation, through the Coast Guard and in consultation with the National Transportation Safety Board and recreational boating organizations, shall, within 24 months of the date of enactment of this Act, assess and report to Congress on the use of emergency position indicating beacons (EPIRBs) and similar devices by the operators of recreational vessels. The assessment shall at a minimum—

(1) evaluate the current availability and use of EPIRBs and similar devices by the operators of recreational vessels and the actual and potential contribution of such devices to recreational boating safety; and

(2) provide recommendations on policies and programs to encourage the availability and use of EPIRBS and similar devices by the operators of recreational vessels.

SEC. 310. SEARCH AND RESCUE HELICOPTER COVERAGE.

Not later than 9 months after the date of enactment of this Act, the Commandant

shall submit a report to the Senate Committee on Commerce, Science, and Transportation—

(1) identifying waters out to 50 miles from the territorial sea of Maine or other States that cannot currently be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;

(2) providing options for ensuring that all waters of the area referred to in paragraph (1) can be served by a Coast Guard search and rescue helicopter within 2 hours of a report of distress or request for assistance from such waters;

(3) providing an analysis assessing the overall capability of Coast Guard seach and rescue assets to serve each area referred to in paragraph (1) with-in 2 hours of a report of distress or request for assistance from such waters; and

(4) identifying, among any other options the Commandant may provide as required by paragraph (2), locations in the State of Maine that may be suitable for the stationing of a Coast Guard search and rescue helicopter and crew, including any Coast Guard facility in Maine, the Bangor Air National Guard Base, and any other locations.

SEC. 311. PETROLEUM TRANSPORTATION.

(a) DEFINITIONS.—In this section:

(1) FIRST COAST GUARD DISTRICT.—The term "First Coast Guard District" means the First Coast Guard District described in section 3.05-1(b) of title 33, Code of Federal Regulations.

(2) SECRETARY.—The term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

(3) WATERS OF THE NORTHWEST.—The term "waters of the Northeast"—

(A) means the waters subject to the jurisdiction of the First Coast Guard District; and

(B) includes the water of Long Island Sound.

(b) REGULATIONS RELATING TO WATERS OF THE NORTHWEST.—

(1) TOWING VESSEL AND BARGE SAFETY FOR WATERS OF THE NORTHEAST.—

(A) IN GENERAL.—Not later than December 31, 1998, the Secretary shall promulgate regulations for towing vessel and barge safety for the waters of the Northeast.

(B) INCORPORATION OF RECOMMENDATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), the regulations promulgated under this paragraph shall give full consideration to each of the recommendations for regulations contained in the report entitled "Regional Risk Assessment of Petroleum Transportation in the Waters of the Northeast United States" issued by the Regional Risk Assessment Team for the First Coast Guard District on February 6, 1997, and the Secretary shall provide a detailed explanation if any recommendation is not adopted.

(ii) EXCLUDED RECOMMENDATIONS.—The regulations promulgated under this paragraph shall not incorporate any recommendation referred to in clause (i) that relates to anchoring or barge retrieval systems.

(2) ANCHORING AND BARGE RETRIEVAL SYSTEMS.—

(A) IN GENERAL.—Not later than November 30, 1998, the Secretary shall promulgate regulations under section 3719 of title 46, United States Code, for the waters of the Northeast, that shall give full consideration to each of the recommendations made in the report referred to in paragraph (1)(B)(i) relating to anchoring and barge retrieval systems, and the Secretary shall provide a detailed explanation if any recommendation is not adopted.

(B) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) prevents the Secretary from promulgating interim final regulations that apply throughout the United States relating to anchoring and barge retrieval systems that contain requirements that are as stringent as the requirements of the regulations promulgated under subparagraph (A).

SEC. 312. SEASONAL COAST GUARD HELICOPTER AIR RESCUE CAPABILITY.

The Secretary of Transportation is authorized to take appropriate actions to ensure the establishment and operation by the Coast Guard of a helicopter air rescue capability that—

(1) is located at Gabreski Airport, Westhampton, New York; and

(2) provides air rescue capability from that location from April 15 to October 15 each year.

SEC. 313. SHIP REPORTING SYSTEMS.

Section 11 of the Ports and Waterways Safety Act, as amended (Public Law 92-340) (33 U.S.C. 1230), is amended by adding at the end of the following:

"(d) SHIP REPORTING SYSTEMS.—The Secretary, in consultation with the International Maritime Organization, is authorized to implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean: Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39′ N., 70 deg. 37′ W; then northeast to 42 deg. 45′ N., 70 deg. 13′ W; then southeast to 42 deg. 10′ N., 68 deg. 31 W, then south to 41 deg. 00′ N.; 68 deg. 31′ W; then west to 41 deg. 00′ N., 69 deg. 17′ W; then northeast to 42 deg. 05′ N., 70 deg. 02′ W, then west to 42 deg. 04′ N., 70 deg. 10′ W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39′ N., 70 deg. 37′ W) and in the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6′ W with the southern and northern boundary at latitudes 30 deg. 00′ N., 31 deg. 27′ N., respectively).".

SEC. 314. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) IN GENERAL.—

(1) Subject to subsection (b), the Secretary of Transportation shall implement and enforce the United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes (hereinafter referred to as "Policy") for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States.

(2) Any discharge under this section shall comply with all terms and conditions of the Policy.

(b) EXPIRATION OF INTERIM AUTHORITY.—The Policy shall cease to have effect on the date which is the earliest of—

(1) the date that legislation providing for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States is enacted;

(2) the date that regulations authorized under existing law providing for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States are promulgated; or

(3) September 20, 2000.

TITLE IV—MISCELLANEOUS

SEC. 401. VESSEL IDENTIFICATION SYSTEM AMENDMENTS.

(a) IN GENERAL.—Chapter 121 of title 46, United States Code, is amended—

(1) by striking "or is not titled in a State" in section 12102(a);

(2) by adding at the end thereof the following:

§ "12124. Surrender of title and number

"(a) A documented vessel shall not be titled by a State or required to display numbers under chapter 123, and any certificate of title issued by a State for a documented vessel shall be surrendered in accordance with regulations prescribed by the Secretary of Transportation.

"(b) The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 121 of title 46, United States Code, is amended by adding at the end thereof the following:

"12124. Surrender of title and number".

(c) OTHER AMENDMENTS.—Title 46, United States Code, is amended—

(1) by striking section 31322(b) and inserting the following:

"(b) Any indebtedness secured by a preferred mortgage that is filed or recorded under this chapter, or that is subject to a mortgage, security agreement, or instruments granting a security interest that is deemed to be a preferred mortgage under subsection (d) of this section, may have any rate of interest to which the parties agree.";

(3) by striking section 31322(d)(3) and inserting the following:

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage even if the vessel is no longer titled in the State where the mortgage, security agreement, or instrument granting a security interest became a preferred mortgage under this subsection.";

(4) by striking "mortgages or instruments" in subsection 31322(d)(2) and inserting "mortgages, security agreements, or instruments";

(5) by inserting "a vessel titled in a State," in section 31325(b)(1) after "a vessel to be documented under chapter 121 of this title.";

(6) by inserting "a vessel titled in a State," in section 31325(b)(3) after "a vessel for which an application for documentation is filed under chapter 121 of this title,"; and

(7) by inserting "a vessel titled in a State," ion section 31325(c) after "a vessel to be documented under chapter 121 of this title,".

SEC. 402. CONVEYANCE OF LIGHTHOUSES.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—the Commandant of the Coast Guard, or the Administrator of the General Services Administration, as appropriate, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Light Station Sand Point, located in Escanaba, Michigan, to the Delta County Historical Society.

(B) Light Station Dunkirk, located in Dunkirk, New York, to the Dunkirk Historical Lighthouse and Veterans' Park Museum.

(C) Long Branch Rear Range Light, located in Jacksonville, Florida, to Jacksonville University, Florida.

(D) Eagle Harbor Light Station, located in Michigan, to the Keweenaw County Historical Society.

(E) Cape Decision Light Station, located in Alaska, to the Cape Decision Lighthouse Society.

(F) Cape St. Elias Light Station, located in Alaska, to the Cape St. Elias Light Keepers Association.

(G) Five Finger Light Station, located in Alaska, to the Juneau Lighthouse Association.

(H) Point Retreat Light Station, located in Alaska, to the Alaska Lighthouse Association.

(I) Hudson-Athens Lighthouse, located in New York, to the Hudson-Athens Lighthouse Preservation Society.

(J) Georgetown Light, located in Georgetown County, South Carolina, to the South Carolina Department of Natural Resources.

(2) IDENTIFICATION OF PROPERTY.—The Commandant or Administrator, as appropriate, may identify, describe, and determine the property to be conveyed under this subsection.

(3) EXCEPTION.—The Commandant or Administrator, as appropriate, may not convey any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Commandant or the Administrator, as appropriate, may consider, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history.

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this Act; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (5) established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Commandant or the Administrator, as appropriate, provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property under this section shall be made subject to the conditions that the Commandant or Administrator, as appropriate, considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant or Administrator, as appropriate;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining and inspecting aids to navigation, and for the purpose of enforcing compliance with subsection (b); and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The owner of the property is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(5) MAINTENANCE OF PROPERTY.—The owner of the property shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—In this section:

(1) AIDS TO NAVIGATION.—The term "aids to navigation" means equipment used for navigation purposes, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) OWNER.—The term "owner" means the person identified in subsection (a)(1), and includes any successor or assign of that person.

(3) DELTA COUNTY HISTORICAL SOCIETY.—The term "Delta County Historical Society" means the Delta County Historical Society (a nonprofit corporation established under the laws of the State of Michigan, its parent organization, or subsidiary, if any).

(4) DUNKIRK HISTORICAL LIGHTHOUSE AND VETERANS' PARK MUSEUM.—The term "Dunkirk Historical Lighthouse and Veterans' Park Museum" means Dunkirk Historical Lighthouse and Veterans' Park Museum located in Dunkirk, New York, or, if appropriate as determined by the Commandant, the Chautauqua County Armed Forces Memorial Park Corporation, New York.

(d) EXTENSION OF PERIOD FOR CONVEYANCE OF WHITLOCK'S MILL LIGHT.—Notwithstanding section 1002(a)(3) of the Coast Guard Authorization Act of 1996, the conveyance authorized by section 1002(a)(2)(AA) of that Act may take place after the date required by section 1002(a)(3) of that Act but no later than December 31, 1998.

SEC. 403. Administrative authority to convey lighthouses

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end thereof the following:

"§ 675. Administrative authority to convey lighthouses

"(a) NOTIFICATION.—Not less than one year prior to reporting to the General Services Administration that a lighthouse or light station eligible for listing under the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) and under the jurisdiction of the Coast Guard is excess to the needs of the Coast Guard, the Commandant of the Coast Guard shall notify the State (including the State Historic Preservation Officer, if any) the appropriate political subdivision of that State, and any lighthouse, historic, or maritime preservation organizations in that State in which the lighthouse or light station is located that such property is excess to the needs of the Coast Guard.

"(b) ADMINISTRATIVE AUTHORITY TO CONVEY.—

"(1) Prior to reporting to the General Services Administration that a lighthouse or light station is excess to the needs of the Coast Guard, the Commandant of the Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to such lighthouse or light station and associated real property to the State in which the lighthouse or light station is located, a local government in that State, or a nonprofit organization dedicated to lighthouse, historic, or maritime heritage preservation located in that State.

"(c) TERMS OF CONVEYANCE.—

"(1) IN GENERAL.—The conveyance of property under this section shall be made—

"(A) without payment of consideration; and

"(B) subject to the terms and conditions required by this section and other terms and conditions the Commandant may consider, including the reservation of easements and other rights on behalf of the United States.

"(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, the conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

"(A) the property, or any part of the property—

"(i) ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of maritime history;

"(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this Act; or

"(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (5) established by the Commandant pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.); or

"(B) at least 30 days before that reversion, the Commandant provides written notice to the owner that the property is needed for national security purposes.

"(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—The conveyance of property under this section shall be made subject to the conditions that the Commandant considers to be necessary to assure that—

"(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

"(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant;

"(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

"(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining and inspecting aids to navigation, and for the purpose of enforcing compliance with subsection (b); and

"(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

"(4) OBLIGATION LIMITATION.—the owner of the property is not required to maintain any

active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

"(5) MAINTENANCE OF PROPERTY.—The owner of the property shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Commandant or the Administrator, as appropriate, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 17 of title 14, United States Code, is amended by adding at the end thereof the following:

"§675. Administrative authority to convey lighthouses.".

SEC. 404. CONVEYANCE OF COMMUNICATION STATION BOSTON MARSHFIELD RECEIVER SITE, MASSACHUSETTS.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Coast Guard Communication Station Boston Marshfield Receiver Site, Massachusetts, to the Town of Marshfield, Massachusetts (the "Town") unless the commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) LIMITATION.—The Commandant shall not convey under this section the land on which is situated the communications tower and the microwave building facility of that station.

(3) IDENTIFICATION OF PROPERTY.—

(A) the Commandant may identify, describe and determine the property to be conveyed to the Town under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) TERMS AND CONDITIONS.—Any conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) The Commandant may reserve utility, access, and any other appropriate easements on the property conveyed for the purpose of operating, maintaining, and protecting the communications tower and the microwave building facility.

(B) The Town and its successors and assigns shall, at their own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner as necessary to ensure the operation, maintenance, and protection of the communications tower and the microwave building facility.

(C) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (b); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 405. CONVEYANCE OF NAHANT PARCEL, ESSEX COUNTY, MASSACHUSETTS.

(a) IN GENERAL.—The Commandant of the Coast Guard, may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the United States Coast Guard Recreation Facility Nahant, Massachusetts, to the Town of Nahant (the "Town") unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(b) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(c) TERMS OF CONVEYANCE.—The conveyance of property under this section shall be made—

(1) without payment of consideration; and

(2) subject to such terms and conditions as the Commandant may consider appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(d) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the Town;

(2) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (c); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 406. CONVEYANCE OF COAST GUARD STATION OCRACOKE, NORTH CAROLINA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States of America in and to the Coast Guard Station Ocracoke, North Carolina, to the State of North Carolina unless the Commandant , or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) IDENTIFICATION OF PROPERTY.—The Commandant may identify, describe, and determine the property to be conveyed under this section.

(b) TERMS AND CONDITIONS.—The conveyance of any property under this section shall be made—

(1) without payment of consideration; and

(2) subject to the following terms and conditions:

(A) EASEMENTS.—The Commandant may reserve utility, access, and any other appropriate easements upon the property to be conveyed for the purpose of—

(i) use of the access road to the boat launching ramp;

(ii) use of the boat launching ramp; and

(iii) use of pier space for necessary Coast Guard vessel assets (including water and electrical power);

(B) MAINTENANCE.—The State shall, at its own cost and expense, maintain the property conveyed under this section in a proper, substantial, and workmanlike manner necessary for the use of any easements created under subparagraph (A) and to comply with maintenance conditions established for property prior to transfer and pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq) and other applicable laws; and

(C) OTHER.—Any other terms and conditions the Commandant may consider appropriate to protect the interests of the United States.

(c) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(1) the property, or any part thereof, ceases to be owned and used by the State;

(2) the State fails to maintain the property conveyed in a manner consistent with the terms and conditions in subsection (b); or

(3) at least 30 days before such reversion, the Commandant provides written notice to the State that the property conveyed is needed for national security purposes.

SEC. 407. CONVEYANCE OF COAST GUARD LORAN STATION NANTUCKET.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Commandant of the United States Coast Guard may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to approximately 29.4 acres of land, together with the improvements thereon, at Coast Guard LORAN Station Nantucket, Nantucket, Massachusetts, to the Town of Nantucket, Massachusetts ("the Town") unless the Commandant, or his delegate, in his sole discretion determines that the conveyance would not provide a public benefit.

(2) IDENTIFICATON OF PROPERTY.—

(A) The Commandant may identify, define, describe, and determine the real property to be conveyed under this section.

(B) The Commandant shall determine the exact acreage and legal description of the property to be conveyed under this section by a survey satisfactory to the Commandant. The cost of the survey shall be borne by the Town.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of real property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the following terms and conditions:

(i) The Town shall not, upon the property conveyed, allow, conduct, or permit any activity, or operate, allow, or permit the operation of, any equipment or machinery, that would interfere or cause interference, in any manner, with any aid to navigation located upon property retained by the United States at Coast Guard LORAN Station Nantucket, without the express written permission from the Commandant.

(ii) The Town shall maintain the real property conveyed in a manner consistent with the present and future use of any property retained by the United States at Coast Guard LORAN Station Nantucket as a site for an aid to navigation.

(iii) Any other terms and conditions the Commandant considers appropriate to protect the interests of the United States, including the reservation of easements or other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—The conveyance of real property pursuant to this section shall be subject to the condition that all right, title, and interest in such property shall immediately revert to the United States if—

(A) the property, or any part thereof, ceases to be owned and used by the Town;

(B) the Town fails to maintain the property conveyed in a manner consistent with the terms and conditions in paragraph (1); or

(C) at least 30 days before such reversion, the Commandant provides written notice to the Town that the property conveyed is needed for national security purposes.

SEC. 408. CONVEYANCE OF COAST GUARD RESERVE TRAINING FACILITY, JACKSONVILLE, FLORIDA.

(a) IN GENERAL.—Notwithstanding any other provision of law—

(1) the land and improvements thereto comprising the Coast Guard Reserve training facility in Jacksonville, Florida, is deemed to be surplus property; and

(2) the Commandant of the Coast Guard may dispose of all right, title, and interest of the United States in and to that property, by sale, at fair market value unless the Commandant, or his delegate, in his sole discretion determines that the sale would not provide a public benefit.

(b) RIGHT OF FIRST REFUSAL.—Before a sale is made under section (a) to any other person, the Commandant of the Coast Guard shall give to the City of Jacksonville, Florida, the right of first refusal to purchase all or any part of the property required to be sold under that subsection.

SEC. 409. CONVEYANCE OF DECOMMISSIONED COAST GUARD VESSELS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to each of 2 decommissioned "White Class" 133-foot Coast Guard vessels to Canvasback Mission, Inc. (a nonprofit corporation under the laws of the State of California; in this section referred to as "the recipient"), without consideration, if—

(1) the recipient agrees—

(A) to use the vessel for purposes of providing medical services to Central and South Pacific island nations;

(B) not to use the vessel for commercial transportation purposes except those incident to the provisions of those medical services;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in times of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and poly-chlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under paragraph (1)(C);

(2) the recipient has funds available that will be committed to operate and maintain each vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in the amount of at least $400,000 per vessel; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSELS.—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as a medical services vessel in Central and South Pacific Islands.

SEC. 410. AMENDMENT TO CONVEYANCE OF VESSEL S/S RED OAK VICTORY.

Section 1008(d)(1) of the Coast Guard Authorization Act of 1996 is amended by striking "2 years" and inserting "3 years".

SEC. 411. TRANSFER OF OCRACOKE LIGHT STATION TO SECRETARY OF THE INTERIOR.

The Administrator of the General Services Administration shall transfer administrative jurisdiction over the Federal property consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

SEC. 412. VESSEL DOCUMENTATION CLARIFICATION.

Section 12102(a)(4) of title 46, United States Code, and section 2(a) of the Shipping Act, 1916 (46 U.S.C. App. 802(a)) are each amended by—

(1) striking "president or other"; and

(2) inserting a comma and "by whatever title," after "chief executive officer".

SEC. 413. SANCTIONS FOR FAILURE TO LAND OR TO HEAVE TO; SANCTIONS FOR OBSTRUCTION OF BOARDING AND PROVIDING FALSE INFORMATION.

(a) IN GENERAL.—Chaper 109 of title 18, United States Code, is amended by adding at the end new section 2237 to read as follows:

"§ 2237. Sanctions for failure to land or to heave to; sanctions for obstruction of boarding and providing false information

"(a)(1) It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to knowingly fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956–57 of this title).

"(2) The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by, and circumstances under which, a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft. Such regulations shall ensure that any such order is clearly communicated in accordance with applicable international standards. Further, such regulations shall establish guidelines based on observed conduct, prior information, or other circumstances for determining when an officer may use the authority granted under paragraph (1).

"(b)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order to heave to that vessel on being ordered to do so by an authorized Federal law enforcement officer.

"(2) It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—

"(A) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;

"(B) impede or obstruct a boarding or arrest or other law enforcement action authorized by any Federal law; or

"(C) provide false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(c) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to heave to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver is conclusively proven by certification of the Secretary of State or the Secretary's designee.

"(e) For purposes of this section—

"(1) a 'vessel of the United States' and a 'vessel subject to the jurisdiction of the United States' have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States;

"(3) an aircraft 'without nationality' includes—

"(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

"(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft;

"(4) the term 'heave to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(5) the term 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(f) Any person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than 3 years; or

"(2) a fine as provided in this title;

or both.

"(g) An aircraft that is used in violation of this section may be seized and forfeited. A vessel that is used in violation of subsection (b)(1) or subsection (b)(2)(A) may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such

property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel or aircraft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by inserting the following new item after the item for section 2236:

"2237. Sanctions for failure to land or to heave to; sanctions for obstruction of boarding or providing false information.".

SEC. 414. DREDGE CLARIFICATION.

Section 5209(b) of the Oceans Act of 1992 (46 U.S.C. 2101 note) is amended by adding at the end thereof the following:

"(3) A vessel—

"(A) configured, outfitted, and operated primarily for dredging operations; and

"(B) engaged in dredging operations which transfers fuel to other vessels engaged in the same dredging operations without charge.".

SEC. 415. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.

Section 9307 of title 46, United States Code, is amended to read as follows:

"§ 9307. Great Lakes Pilotage Advisory Committee

"(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

"(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

"(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

"(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

"(4) shall meet at the call of—

"(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

"(B) a majority of the Committee.

"(b)(1) The Committee shall consist of 7 members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

"(2) The membership of the Committee shall include—

"(A) 3 members who are practicing Great Lakes pilots and who reflect a regional balance;

"(B) 1 member representing the interests of vessel operators that contract for Great Lakes pilotage services;

"(C) 1 member representing the interests of Great Lakes ports;

"(D) 1 member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

"(E) 1 member representing the interests of the general public, who is an independent expert on the Great Lakes maritime industry.

"(c)(1) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

"(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The representatives shall, as appropriate, report to and advise the Committee on matters relating to Great Lakes pilotage. The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.C.S. App.).

"(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

"(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

"(e)(1) A member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS–18 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

"(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2003.

"(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.".

SEC. 416. DOCUMENTATION OF CERTAIN VESSELS.

(a) GENERAL WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for each of the following vessels:

(1) MIGHTY JOHN III (formerly the NIAGRA QUEEN), Canadian official number 318746.

(2) DUSKEN IV, United States official number 952645.

(3) SUMMER BREEZE, United States official number 552808.

(4) ARCELLA, United States official number 1025983.

(5) BILLIE–B–II, United States official number 982069.

(6) VESTERHAVET, United States official number 979206.

(7) BETTY JANE, State of Virginia registration number VA 7271 P.

(8) VORTICE, Bari, Italy, registration number 256, if the vessel meets the ownership requirements of section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802).

(9) The barge G. L. 8, Canadian official number 814376.

(10) FOILCAT, United States official number 1063892.

(11) YESTERDAYS DREAM, United States official number 680266.

(12) ENFORCER, United States official number 502610.

(13) The vessel registered as State of Oregon registration number OR 766 YE.

(14) AMICI, United States official number 658055.

(15) ELIS, United States official number 628358.

(16) STURE, United States official number 617703.

(17) CAPT GRADY, United States official number 626257.

(18) Barge number 1, United States official number 933248.

(19) Barge number 2, United States official number 256944.

(20) Barge number 14, United States official number 501212.

(21) Barge number 18, United States official number 297114.

(22) Barge number 19, United States official number 503740.

(23) Barge number 21, United States official number 650581.

(24) Barge number 22, United States official number 650582.

(25) Barge number 23, United States official number 650583.

(26) Barge number 24, United States official number 664023.

(27) Barge number 25, United States official number 664024.

(28) Barge number 26, United States official number 271926.

(29) PACIFIC MONARCH, United States official number 557467.

(30) FULL HOUSE, United States official number 1023827.

(31) W.G. JACKSON, United States official number 1047199.

(32) EMBARCADERO, United States official number 669327.

(33) S.A., British Columbia, Canada official number 195214.

(34) FAR HORIZONS, United States official number 1044011.

(35) LITTLE TOOT, United States official number 938858.

(36) TURMOIL, British official number 726767.

(b) FALLS POINT.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FALLS POINT, State of Maine registration number ME 5435 E.

(c) TERMINATION.—The endorsement issued under subsection (a)(10) shall terminate on the last day of the 36th month beginning after the date on which it was issued.

(d) NINA, PINTA, AND SANTA MARIA REPLICAS.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C) App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may authorize employment in the coastwise trade for the purpose of carrying passengers for hire for each of the following vessels while the vessel is operated by the las Carabelas Columbus Fleet Association under the terms of its agreement of

May 6, 1992, with the Sociedata Estatal para la Ejucucion de Programas y Actuaciones Conmeroratives del Quinto Centario del Descubrimiento de America, S.A., and the Spain '92 Foundation:

(1) NINA, United States Coast Guard vessel identification number CG034346;

(2) PINTA, United States Coast Guard vessel identification number CG034345; and

(3) NAO SANTA MARIA, United States Coast Guard vessel identification number CG034344.

(e) BARGE APL-60—.

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 12106 of title 46, United States Code, the Secretary may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the barge APL-60 (United States official number 376857).

(2) LIMITATIONS.—The vessel described in paragraph (1) of this subsection may be employed in the coastwise trade only for the purpose of participating in the ship disposal initiative initially funded by the Department of Defense Appropriations Act, 1999, for the duration of that initiative.

(3) TERMINATION.—A coastwise endorsement issued under paragraph (1) shall terminate on the earlier of—

(A) the completion of the final coastwise trade voyage associated with the ship disposal initiative described in paragraph (2); or

(B) the sale or transfer of the vessel described in paragraph (1) to an owner other than the owner of the vessel as of October 1, 1998.

SEC. 417. DOUBLE HULL ALTERNATIVE DESIGNS STUDY.

Section 4115(e) of the Oil Pollution Act of 1990 (46 U.S. Code 3703a note) is amended by adding at the end thereof the following:

"(3)(A) The Secretary of Transportation shall coordinate with the Marine Board of the National Research Council to conduct the necessary research and development of a rationally based equivalency assessment approach, which accounts for the overall environmental performance of alternative tank vessel designs. Notwithstanding sections 101 and 311 of the Clean Water Act (33 U.S.C. 1251 and 1321), the intent of this study is to establish an equivalency evaluation procedure that maintains a high standard of environmental protection, while encouraging innovative ship design. The study shall include:

"(i) development of a generalized cost spill data base, which includes all relevant costs such as clean-up costs and environmental impact costs as a function of spill size;

"(ii) refinement of the probability density functions used to establish the extent of vessel damage, based on the latest available historical damage statistics, and current research on the crash worthiness of tank vessel structures;

"(iii) development of a rationally based approach for calculating an environmental index, to assess overall overflow performance due to collisions and groundings; and

"(iv) application of the proposed index to double hull tank vessels and alternative designs currently under consideration.

"(B) A Marine Board committee shall be established not later than 2 months after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 1998, 1999, and 2000. The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure in the House of Representatives a report on the results of the study not later than 12 months after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 1998, 1999, and 2000.

"(C) Of the amounts authorized by section 1012(a)(5)(A) of this Act, $500,000 is authorized to carry out the activities under subparagraphs (A) and (B) of this paragraph.".

SEC. 418. REPORT ON MARITIME ACTIVITIES.

Section 208 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1118) is amended by striking "each year," and inserting "of each odd-numbered year,".

SEC. 419. VESSEL SHARING AGREEMENTS.

(a) Section 5 of the Shipping Act of 1984 (46 U.S.C. App. 1704) is amended by adding at the end thereof the following:

"(g) VESSEL SHARING AGREEMENTS.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a United States-flag liner vessel documented pursuant to sections 12102(a) or (d) of title 46, United States Code, is authorized to agree with an ocean common carrier that is not the owner, operator or bareboat charterer for at least one year of United States-flag liner vessels which are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program pursuant to subtitle B of title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1187 et seq.), to which it charters or subcharters the United States-flag vessel or space on the United States-flag vessel that such charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for United States-flag vessels.".

(b) Section 10(c)(6) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)(6)) is amended by inserting "authorized by section 5(g) of this Act, or as" before "otherwise".

(c) Nothing in this section shall affect or in any way diminish the authority or effectiveness of orders issued by the Maritime Administration pursuant to sections 9 and 41 of the Shipping Act, 1916 (46 U.S.C. App. 808 and 839).

SEC. 420. REPORT ON SWATH TECHNOLOGY.

The Commandant of the Coast Guard shall, within 18 months after the date of enactment of this Act, report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the applicability of Small Waterplane Area Twin Hull (SWATH) technology, including concepts developed by the United States Office of Naval Research, to the design of Coast Guard vessels.

SEC. 421. REPORT ON TONNAGE CALCULATION METHODOLOGY.

The Administrator of the Panama Canal Commission shall, within 90 days of the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the methodology employed in the calculation of the charge of tolls for the carriage of on-deck containers. The report shall also include an explanation as to why the 8.02 percent coefficient was determined to be the upper limit and maximum cap for on-deck container capacity, and why any increase in that coefficient would be inappropriate.

SEC. 422. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL, AMERICAN VICTORY.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Secretary of Transportation (referred to in this section as "the Secretary") may convey all right, title, and interest of the Federal Government in and to the vessel S.S. AMERICAN VICTORY (United States official number 248005) to The Victory Ship, Inc., located in Tampa, Florida (in this section referred to as the "recipient"), and the recipient may use the vessel only as a memorial to the Victory class of ships.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(e) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

SEC. 423. AUTHORITY TO CONVEY NATIONAL DEFENSE RESERVE FLEET VESSEL, JOHN HENRY.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Secretary of Transportation (in this section referred to as "Secretary") may convey all right, title, and interest of the United States Government in and to the vessel JOHN HENRY (United states official number 599294) to a purchaser for use in humanitarian relief efforts, including the provision of water and humanitarian goods to developing nations.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date;

(C) at no cost to the United States Government; and

(D) only after the vessel has been redesignated as not militarily useful.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) competitive procedures are used for sales under this section;

(B) the vessel is sold for not less than the fair market value of the vessel in the United States, as determined by the Secretary of Transportation;

(C) the recipient agrees that the vessel shall not be used for commercial transportation purposes or for the carriage of cargoes reserved to United States flag commercial vessels under section 901(b) and 901f of the Merchant Marine Act, 1936 (46 U.S.C. app. 1241(b) and 1241f);

(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous material, including asbestos and polycholorinated bipheyls, after the conveyance of the vessel, except for claims arising before the date of the conveyance or from use of the vessel by the Government after that date; and

(E) the recipient provides sufficient evidence to the Secretary that it has financial resources in the form of cash, liquid assets, or a written loan commitment of at least $100,000.

(F) the recipient agrees to make the vessel available to the Government if the Secretary requires use of the vessel by the Government for war or national emergency.

(G) the recipient agrees to document the vessel under chapter 121 of title 46, United States Code.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) PROCEEDS.—Any amounts received by the United States as proceeds from the sale of the M/V JOHN HENRY shall be deposited in the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (chapter 121; 46 U.S.C. App. 1241a) and shall be available and expended in accordance with section 6(a) of the National Maritime Heritage Act (16 U.S.C. App. 5405(a)).

SEC. 424. AUTHORIZED NUMBER OF NOAA CORPS COMMISSIONED OFFICERS.

(a) Section 2 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a) is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

"(a)(1) Except as provided in paragraph (2), there are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration for fiscal years 1999, 2000, 2001, 2002, and 2003.

"(2) The administrator may reduce the number of commissioned officers on the active list below 264 if the Administrator determines that it is appropriate, taking into consideration—

"(A) the number of billets on the vessels and aircraft owned and operated by the Administration;

"(B) the need of the Administration to collect high-quality oceanographic, fisheries, hydrographic, and atmospheric data and information on a continuing basis;

"(C) the need for effective and safe operation of the Administration's vessels and aircraft;

"(D) the need for effective management of the commissioned Corps; and

"(E) the protection of the interests of taxpayers.

"(3) At least 90 days before beginning any reduction as described in paragraph (2), the Administrator shall provide notice of such reduction to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.".

(b) Section 24(a) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853u(a)) is amended by inserting "One such position shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel and aircraft fleets, of the Administration." before "An officer".

(c) The Secretary of Commerce immediately shall relieve the moratorium on new appointments of commissioned officers to the National Oceanic and Atmospheric Administration Corps.

SEC. 425. COAST GUARD CITY, USA.

The Commandant of the Coast Guard may recognize the Community of Grand Haven, Michigan, as "Coast Guard City, USA". If the Commandant desires to recognize any other community in the United States in the same manner or any other community requests such recognition from the Coast Guard, the Commandant shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives at least 90 days before approving such recognition.

SEC. 426. MARINE TRANSPORTATION FLEXIBILITY.

(a) IN GENERAL.—Section 218 of title 23, United States Code, is amended—

(1) by striking "the south Alaskan border" in the first sentence of subsection (a) and inserting "Haines";

(2) in the third sentence by striking "highway" in the third sentence of subsection (a) and inserting "highway or the Alaska Marine Highway System";

(3) by striking "any other fiscal year thereafter" in the fourth sentence of subsection (a) and inserting "any other fiscal year thereafter, including any portion of any other fiscal year thereafter, prior to the date of the enactment of the Transportation Equity Act for the 21st Century";

(4) by striking "construction of such highways until an agreement" in the fifth sentence of subsection (a) and inserting "construction of the portion of such highways that are in Canada until an agreement"; and

(5) by inserting "in Canada" after "undertaken" in subsection (b).

TITLE V—ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

SEC. 501. FINDINGS.

The Congress finds that—

(1) current coastwise trade laws provide no administrative authority to waive the United States-built requirement of those laws for the limited carriage of passengers for hire on vessels built or rebuilt outside the United States;

(2) requests for such waivers require the enactment of legislation by the Congress;

(3) each Congress routinely approves numerous such requests for waiver and rarely rejects any such request; and

(4) the review and approval of such waiver requests is a ministerial function which properly should be executed by an administrative agency with appropriate expertise.

SEC. 502. ADMINISTRATIVE WAIVER OF COASTWISE TRADE LAWS.

Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwide trade as a passenger vessel, a small passenger vessel, or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

(1) United States vessel builders; or

(2) the coastwise trade business of any person who employs vessels built in the United States in that business.

SEC. 503. REVOCATION.

The Secretary may revoke an endorsement issued under section 502, after notice and an opportunity for public comment, if the Secretary determines that the employment of the vessel in the coastwise trade has substantially changed since the issuance of the endorsement, and—

(1) the vessel is employed other than as a passenger vessel, a small passenger vessel, or an uninspected passenger vessel; or

(2) the employment of the vessel adversely affects—

(A) United States vessel builders; or

(B) the coastwise trade business of any person who employs vessels built in the United States.

SEC. 504. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(2) ELIGIBLE VESSEL.—The term "eligible vessel" means a vessel that—

(A) was not build in the United States and is at least 3 years of age; or

(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certification requested under section 502, if granted, would take effect.

(3) PASSENGER VESSEL, SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms "passenger vessel", "small passenger vessel", "uninspected passenger vessel", and "passenger for hire" have the meaning given such terms by section 2101 of title 46, United States Code.

TITLE VI—HARMFUL ALGAL BLOOMS AND HYPOXIA

SEC. 601. SHORT TITLE.

This title may be cited as the "Harmful Algal Bloom and Hypoxia Research and Control Act of 1998".

SEC. 602. FINDINGS.

The Congress finds that—

(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation's coastal waters;

(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii, Florida, Puerto Rico, and the U.S. Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

(5) harmful algal blooms may have been responsible for an estimated $1,000,000,000 in economic losses during the past decade.

(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia

(reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of U.S. estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation's understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.

SEC. 603. ASSESSMENTS.

(a) ESTABLISHMENT OF INTER-AGENCY TASK FORCE.—The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (hereinafter referred to as the "Task Force"). The Task Force shall consist of the following representatives from—

(1) the Department of Commerce (who shall serve as Chairman of the Task Force);

(2) the Environmental Protection Agency;

(3) the Department of Agriculture;

(4) the Department of the Interior;

(5) the Department of the Navy;

(6) the Department of Health and Human Services;

(7) the National Science Foundation;

(8) the National Aeronautics and Space Administration;

(9) the Food and Drug Administration;

(10) the Office of Science and Technology Policy;

(11) the Council on Environmental Quality; and

(12) such other Federal agencies as the President considers appropriate.

(b) ASSESSMENT OF HARMFUL ALGAL BLOOMS.—

(1) Not later than 12 months after the date of enactment of this title, the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

(c) ASSESSMENT OF HYPOXIA.—

(1) Not later than 12 months after the date of enactment of this title, the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States Coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect by hypoxia; and

(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

(e) DISESTABLISHMENT OF TASK FORCE.—The President may disestablish the Task Force after submission of the path in section 604(d).

SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

(a) ASSESSMENT REPORT.—Not later than May 30, 1999, the Task Force shall complete and submit to Congress and the President an integrated assessment of hypoxia in the northern Gulf of Mexico that examines: the distribution, dynamics, and causes; ecological and economic consequences; sources and loads of nutrients transported by the Mississippi River to the Gulf of Mexico; effects of reducing nutrient loads; methods for reducing nutrient loads; and the social and economic costs and benefits of such methods.

(b) SUBMISSION OF A PLAN.—No later than March 30, 2000, the President, in conjunction with the chief executive officers of the States, shall develop and submit to Congress a plan, based on the integrated assessment submitted under subsection (a), for reducing, mitigating, and controlling hypoxia in the northern Gulf of Mexico. In developing such plan, the President shall consult with State, Indian tribe, and local governments, academic, agricultural, industry, and environmental groups and representatives. Such plan shall include incentive-based partnership approaches. The plan shall also include the social and economic costs and benefits of the measures for reducing, mitigating, and controlling hypoxia. At least 90 days before the President submits such plan to the Congress, a summary of the proposed plan shall be published in the Federal Register for a public comment period of not less than 60 days.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce for research, education, and monitoring activities related to the prevention, reduction, and control of harmful algal blooms and hypoxia, $25.5 million in each of fiscal years 1999, 2000, and 2001, to remain available until expended. The Secretary shall consult with the States on a regular basis regarding the development and implementation of the activities authorized under this section. Of such amounts for each fiscal year—

(1) $5,000,000 may be used to enable the National Oceanic and Atmospheric Administration to carry out research and assessment activities, including procurement of necessary research equipment, at research laboratories of the National Ocean Service and the National Marine Fisheries Service;

(2) $7,000,000 may be used to carry out the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project under the Coastal Ocean Program established under section 201(c) of Public Law 102–567.

(3) $3,000,000 may be used by the National Ocean Service of the National Oceanic and Atmospheric Administration to carry out a peer-reviewed research project on management measures that can be taken to prevent, reduce, control, and mitigate harmful algal blooms;

(4) $5,500,000 may be used to carry out Federal and State annual monitoring and analysis activities for harmful algal blooms administered by the National Ocean Service of the National Oceanic and Atmospheric Administration.

(5) $5,000,000 may be used for activities related to research and monitoring on hypoxia by the National Ocean Service and the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration.

SEC. 606. AMENDMENT TO NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Section 212(a) of the National Sea Grant College Program Act (33 U.S.C. 1131(a)) is amended by striking paragraph (2)(C) and inserting the following:

"(C) up to $3,000,000 may be made available for competitive grants for university research, education, training, and advisory services on Pfiesteria piscicida and other harmful algal blooms.".

SEC. 607. AMENDMENT TO THE COASTAL ZONE MANAGEMENT ACT.

Section 318(a) of the coastal Zone Management Act of 1972 (16 U.S.C. 1464 (a)) is amended by adding at the end thereof the following:

"(3) up to $2,000,000 for fiscal years 1999 and 2000 for technical assistance under section 310 to support State implementation and analysis of the effectiveness of measures to prevent, reduce, mitigate, or control harmful algal blooms and hypoxia.".

SEC. 608 PROTECTION OF STATES' RIGHTS.

(a) Nothing in this title shall be interpreted to adversely affect existing State regulatory or enforcement power which has been granted to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

(b) Nothing in this title shall be interpreted to expand the regulatory or enforcement power of the Federal Government which has been delegated to any State through the Clean Water Act or Coastal Zone Management Act of 1972.

TITLE VII—ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 701. APPLICABILITY OF AUTHORITY TO RELEASE RESTRICTIONS AND ENCUMBRANCES.

Section 315(c)(1) of the Federal Maritime Commission Authorization Act of 1990 (Public Law 101–595; 104 Stat. 2988) is amended—

(1) by striking "3 contiguous tracts" and inserting "4 tracts"; and

(2) by striking "Tract A" and all that follows through the end of the paragraph and inserting the following:

"Tract 1—Commencing at a point N45° 28′ 31″ E 198.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 220 feet; thence N45° 28′ 31″ E 50 feet; thence N44° 29′ 09″ W 220 feet; thence S45° 28′ 31″ W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).

"Tract 2—Commencing at a point N45° 28′ 31″ E 198.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 169.3 feet; thence S45° 28′ 31″ W 75 feet; (Deed Call S45° 30′ 51″ W 75 feet), thence N44° 29′ 09″ W 169.3 feet; thence N45° 28′ 31″ E 75 feet to the point of commencement and containing 12,697 square feet (0.2915 acres).

"Tract 3—Commencing at a point N45° 28′ 31″ E 248.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 220 feet; thence N45° 28′ 31″ E 50 feet; thence N44° 29′ 09″ W 220 feet; thence S45° 28′ 31″ W 50 feet to the point of commencement and containing 11,000 square feet (0.2525 acres).

"Tract 4—Commencing at a point N45° 28′ 31″ E 123.3 feet and S44° 29′ 09″ E 169.3 feet from point 'A' as shown on plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence S44° 29′ 09″ E 50.7 feet; thence N45° 28′ 31″ E 75 feet; thence N44° 29′ 09″ W 50.7 feet; thence S45° 28′ 31″ W 75 feet (Deed Call S45° 30′ 51″ W 75 feet) to the point of commencement and containing 3,802 square feet (0.0873 acres).

"Composite Description—A tract of land lying in section 2, Township 10 South—Range 8 West, Calcasieu Parish, Louisiana, and being mone [sic] particularly described as follows: Begin at a point N45° 28′ 31″ E 123.3 feet from point 'A' as shown as plat of survey of 'Boundary Agreement of CAFB' by D.W. Jessen and Associates, Civil Engineers, Lake Charles, Louisiana, dated August 7, 1973, and filed in Plat Book 23, at page 20, Records of Calcasieu Parish, Louisiana; thence N45° 28′ 31″ E 175.0 feet; thence S44° 29′ 09″ E 220.0 feet; thence S45° 28′ 31″ W 175.0 feet; thence N44° 29′ 09″ W 220.0 feet to the point of beginning, containing 0.8035 acres.

ECONOMIC DEVELOPMENT ADMINISTRATION REFORM ACT OF 1998

CHAFEE AMENDMENT NO. 3814

Mr. JEFFORDS (for Mr. CHAFEE) proposed an amendment to the bill (S. 2364) to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965; as follows:

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 "Economic Development Administration and Appalachian Regional Development Reform 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—ECONOMIC DEVELOPMENT

Sec. 101. Short title.
Sec. 102. Reauthorization of Public Works and Economic Development Act of 1965.
Sec. 103. Conforming amendment.
Sec. 104. Transition provisions.
Sec. 105. Effective date.

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

Sec. 201. Short title.
Sec. 202. Findings and purposes.
Sec. 203. Meetings.
Sec. 204. Administrative expenses.
Sec. 205. Compensation of employees.
Sec. 206. Administrative powers of Commission.
Sec. 207. Cost sharing of demonstration health projects.
Sec. 208. Repeal of land stabilization, conservation, and erosion control program.
Sec. 209. Repeal of timber development program.
Sec. 210. Repeal of mining area restoration program.
Sec. 211. Repeal of water resource survey.
Sec. 212. Cost sharing of housing projects.
Sec. 213. Repeal of airport safety improvements program.
Sec. 214. Cost sharing of vocational education and education demonstration projects.
Sec. 215. Repeal of sewage treatment works program.
Sec. 216. Repeal of amendments to Housing Act of 1954.
Sec. 217. Supplements to Federal grant-in-aid programs.
Sec. 218. Program development criteria.
Sec. 219. Distressed and economically strong counties.
Sec. 220. Grants for administrative expenses and commission projects.
Sec. 221. Authorization of appropriations for general program.
Sec. 222. Extension of termination date.
Sec. 223. Technical amendment.

TITLE I—ECONOMIC DEVELOPMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Economic Development Administration Reform Act of 1998".

SEC. 102. REAUTHORIZATION OF PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.

(a) FIRST SECTION THROUGH TITLE VI—The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended by striking the first section and all that follows through the end of title VI and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Public Works and Economic Development Act of 1965'.

"(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings and declarations.
"Sec. 3. Definitions.

"TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

"Sec. 101. Establishment of economic development partnerships.
"Sec. 102. Cooperation of Federal agencies.
"Sec. 103. Coordination.

"TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

"Sec. 201. Grants for public works and economic development.
"Sec. 202. Base closings and realignments.
"Sec. 203. Grants for planning and grants for administrative expenses.
"Sec. 204. Cost sharing.
"Sec. 205. Supplementary grants.
"Sec. 206. Regulations on relative needs and allocations.
"Sec. 207. Grants for training, research, and technical assistance.
"Sec. 208. Prevention of unfair competition.
"Sec. 209. Grants for economic adjustment.
"Sec. 210. Changed project circumstances.
"Sec. 211. Use of funds in projects constructed under projected cost.
"Sec. 212. Reports by recipients.
"Sec. 213. Prohibition on use of funds for attorney's and consultant's fees.

"TITLE III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

"Sec. 301. Eligibility of areas.
"Sec. 302. Comprehensive economic development strategies.

"TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS
"Sec. 401. Designation of economic development districts.
"Sec. 402. Termination or modification of economic development districts.
"Sec. 403. Incentives.
"Sec. 404. Provision of comprehensive economic development strategies to Appalachian Regional Commission.
"Sec. 405. Assistance to parts of economic development districts not in eligible areas.
"TITLE V—ADMINISTRATION
"Sec. 501. Assistant Secretary for Economic Development.
"Sec. 502. Economic development information clearinghouse.
"Sec. 503. Consultation with other persons and agencies.
"Sec. 504. Administration, operation, and maintenance.
"Sec. 505. Businesses desiring Federal contracts.
"Sec. 506. Performance evaluations of grant recipients.
"Sec. 507. Notification of reorganization.
"TITLE VI—MISCELLANEOUS
"Sec. 601. Powers of Secretary.
"Sec. 602. Maintenance of standards.
"Sec. 603. Annual report to Congress.
"Sec. 604. Delegation of functions and transfer of funds among Federal agencies.
"Sec. 605. Penalties.
"Sec. 606. Employment of expediters and administrative employees.
"Sec. 607. Maintenance and public inspection of list of approved applications for financial assistance.
"Sec. 608. Records and audits.
"Sec. 609. Relationship to assistance under other law.
"Sec. 610. Acceptance of certifications by applicants.
"TITLE VII—FUNDING
"Sec. 701. General authorization of appropriations.
"Sec. 702. Authorization of appropriations for defense conversion activities.
"Sec. 703. Authorization of appropriations for disaster economic recovery activities.

"SEC. 2. FINDINGS AND DECLARATIONS.

"(a) FINDINGS.—Congress finds that—

"(1) while the economy of the United States is undergoing a sustained period of economic growth resulting in low unemployment and increasing incomes, there continue to be areas suffering economic distress in the form of high unemployment, low incomes, underemployment, and outmigration as well as areas facing sudden economic dislocations due to industrial restructuring and relocation, defense base closures and procurement cutbacks, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

"(2) as the economy of the United States continues to grow, those distressed areas contain significant human and infrastructure resources that are underused;

"(3) expanding international trade and the increasing pace of technological innovation offer both a challenge and an opportunity to the distressed communities of the United States;

"(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, and State organizations to ensure that existing resources are not wasted and all Americans have an opportunity to participate in the economic growth of the United States;

"(5) in order to avoid wasteful duplication of effort and to limit the burden on distressed communities, Federal, State, and local economic development activities should be better planned and coordinated and Federal program requirements should be simplified and made more consistent;

"(6) the goal of Federal economic development activities should be to work in partnership with local, regional, and State public and private organizations to support the development of private sector businesses and jobs in distressed communities;

"(7) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade and technology programs of the United States; and

"(8) under this Act, new employment opportunities should be created by developing and expanding new and existing public works and other facilities and resources rather than by merely transferring jobs from one area of the United States to another.

"(b) DECLARATIONS.—Congress declares that, in order to promote a strong and growing economy throughout the United States—

"(1) assistance under this Act should be made available to both rural and urban distressed communities;

"(2) local communities should work in partnership with neighboring communities, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to address existing, or deter impending, economic distress; and

"(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—The term 'comprehensive economic development strategy' means a comprehensive economic development strategy approved by the Secretary under section 302.

"(2) DEPARTMENT.—The term 'Department' means the Department of Commerce.

"(3) ECONOMIC DEVELOPMENT DISTRICT.—

"(A) IN GENERAL.—The term 'economic development district' means any area in the United States that—

"(i) is composed of areas described in section 301(a) and, to the extent appropriate, neighboring counties or communities; and

"(ii) has been designated by the Secretary as an economic development district under section 401.

"(B) INCLUSION.—The term 'economic development district' includes any economic development district designated by the Secretary under section 403 (as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998).

"(4) ELIGIBLE RECIPIENT.—

"(A) IN GENERAL.—The term 'eligible recipient' means—

"(i) an area described in section 301(a);

"(ii) an economic development district;

"(iii) an Indian tribe;

"(iv) a State;

"(v) a city or other political subdivision of a State or a consortium of political subdivisions;

"(vi) an institution of higher education or a consortium of institutions of higher education; or

"(vii) a public or private nonprofit organization or association acting in cooperation with officials of a political subdivision of a State.

"(B) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE GRANTS.—In the case of grants under section 207, the term 'eligible recipient' also includes private individuals and for-profit organizations.

"(5) FEDERAL AGENCY.—The term 'Federal agency' means a department, agency, or instrumentality of the United States.

"(6) GRANT.—The term 'grant' includes a cooperative agreement (within the meaning of chapter 63 of title 31, United States Code).

"(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or Regional Corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(9) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the 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.

"(10) UNITED STATES.—The term 'United States' means all of the States.

"TITLE I—ECONOMIC DEVELOPMENT PARTNERSHIPS COOPERATION AND COORDINATION

"SEC. 101. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

"(a) IN GENERAL.—In providing assistance under this title, the Secretary shall cooperate with States and other entities to ensure that, consistent with national objectives, Federal programs are compatible with and further the objectives of State, regional, and local economic development plans and comprehensive economic development strategies.

"(b) TECHNICAL ASSISTANCE.—The Secretary may provide such technical assistance to States, political subdivisions of States, sub-State regional organizations (including organizations that cross State boundaries), and multi-State regional organizations as the Secretary determines is appropriate to—

"(1) alleviate economic distress;

"(2) encourage and support public-private partnerships for the formation and improvement of economic development strategies that sustain and promote economic development across the United States; and

"(3) promote investment in infrastructure and technological capacity to keep pace with the changing global economy.

"(c) INTERGOVERNMENTAL REVIEW.—The Secretary shall promulgate regulations to ensure that appropriate State and local government agencies have been given a reasonable opportunity to review and comment on proposed projects under this title that the Secretary determines may have a significant direct impact on the economy of the area.

"(d) COOPERATION AGREEMENTS.—

"(1) IN GENERAL.—The Secretary may enter into a cooperation agreement with any 2 or more adjoining States, or an organization of any 2 or more adjoining States, in support of effective economic development.

"(2) PARTICIPATION.—Each cooperation agreement shall provide for suitable participation by other governmental and nongovernmental entities that are representative of significant interests in and perspectives on economic development in an area.

"SEC. 102. COOPERATION OF FEDERAL AGENCIES.

"In accordance with applicable laws and subject to the availability of appropriations, each Federal agency shall exercise its powers, duties and functions, and shall cooperate with the Secretary, in such manner as will assist the Secretary in carrying out this title.

"SEC. 103. COORDINATION.

"The Secretary shall coordinate activities relating to the preparation and implementation of comprehensive economic development strategies under this Act with Federal agencies carrying out other Federal programs, States, economic development districts, and other appropriate planning and development organizations.

"TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

"SEC. 201. GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT.

"(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for—

"(1) acquisition or development of land and improvements for use for a public works, public service, or development facility; and

"(2) acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment.

"(b) CRITERIA FOR GRANT.—The Secretary may make a grant under this section only if the Secretary determines that—

"(1) the project for which the grant is applied for will, directly or indirectly—

"(A) improve the opportunities, in the area where the project is or will be located, for the successful establishment or expansion of industrial or commercial plants or facilities;

"(B) assist in the creation of additional long-term employment opportunities in the area; or

"(C) primarily benefit the long-term unemployed and members of low-income families;

"(2) the project for which the grant is applied for will fulfill a pressing need of the area, or a part of the area, in which the project is or will be located; and

"(3) the area for which the project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy.

"(c) MAXIMUM ASSISTANCE FOR EACH STATE.—Not more than 15 percent of the amounts made available to carry out this section may be expended in any 1 State.

"SEC. 202. BASE CLOSINGS AND REALIGNMENTS.

"Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this title for a project to be carried out on a military or Department of Energy installation that is closed or scheduled for closure or realignment without requiring that the eligible recipient have title to the property or a leasehold interest in the property for any specified term.

"SEC. 203. GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

"(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants to pay the costs of economic development planning and the administrative expenses of organizations that carry out the planning.

"(b) PLANNING PROCESS.—Planning assisted under this title shall be a continuous process involving public officials and private citizens in—

"(1) analyzing local economies;

"(2) defining economic development goals;

"(3) determining project opportunities; and

"(4) formulating and implementing an economic development program that includes systematic efforts to reduce unemployment and increase incomes.

"(c) USE OF PLANNING ASSISTANCE.—Planning assistance under this title shall be used in conjunction with any other available Federal planning assistance to ensure adequate and effective planning and economical use of funds.

"(d) STATE PLANS.—

"(1) DEVELOPMENT.—Any State plan developed with assistance under this section shall be developed cooperatively by the State, political subdivisions of the State, and the economic development districts located wholly or partially in the State.

"(2) COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—As a condition of receipt of assistance for a State plan under this subsection, the State shall have or develop a comprehensive economic development strategy.

"(3) CERTIFICATION TO THE SECRETARY.—On completion of a State plan developed with assistance under this section, the State shall—

"(A) certify to the Secretary that, in the development of the State plan, local and economic development district plans were considered and, to the maximum extent practicable, the State plan is consistent with the local and economic development district plans; and

"(B) identify any inconsistencies between the State plan and the local and economic development district plans and provide a justification for each inconsistency.

"(4) COMPREHENSIVE PLANNING PROCESS.—Any overall State economic development planning assisted under this section shall be a part of a comprehensive planning process that shall consider the provision of public works to—

"(A) promote economic development and opportunity;

"(B) foster effective transportation access;

"(C) enhance and protect the environment; and

"(D) balance resources through the sound management of physical development.

"(5) REPORT TO SECRETARY.—Each State that receives assistance for the development of a plan under this subsection shall submit to the Secretary an annual report on the planning process assisted under this subsection.

"SEC. 204. COST SHARING.

"(a) FEDERAL SHARE.—Subject to section 205, the amount of a grant for a project under this title shall not exceed 50 percent of the cost of the project.

"(b) NON-FEDERAL SHARE.—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, and services.

"SEC. 205. SUPPLEMENTARY GRANTS.

"(a) DEFINITION OF DESIGNATED FEDERAL GRANT PROGRAM.—In this section, the term 'designated Federal grant program' means any Federal grant program that—

"(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

"(2) the Secretary designates as eligible for an allocation of funds under this section; and

"(3) assists projects that are—

"(A) eligible for assistance under this title; and

"(B) consistent with a comprehensive economic development strategy.

"(b) SUPPLEMENTARY GRANTS.—

"(1) IN GENERAL.—On the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the eligible recipient's economic situation, for which the eligible recipient cannot provide the required non-Federal share.

"(2) PURPOSES OF GRANTS.—Supplementary grants under paragraph (1) may be made for purposes that shall include enabling eligible recipients to use—

"(A) designated Federal grant programs; and

"(B) direct grants authorized under this title.

"(c) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—

"(1) AMOUNT OF SUPPLEMENTARY GRANTS.—Subject to paragraph (4), the amount of a supplementary grant under this title for a project shall not exceed the applicable percentage of the cost of the project established by regulations promulgated by the Secretary, except that the non-Federal share of the cost of a project (including assumptions of debt) shall not be less than 20 percent.

"(2) FORM OF SUPPLEMENTARY GRANTS.—In accordance with such regulations as the Secretary may promulgate, the Secretary shall make supplementary grants by increasing the amounts of grants authorized under this title or by the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs.

"(3) FEDERAL SHARE LIMITATIONS SPECIFIED IN OTHER LAWS.—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.

"(4) LOWER NON-FEDERAL SHARE.—

"(A) INDIAN TRIBES.—In the case of a grant to an Indian tribe, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1) or may waive the non-Federal share.

"(B) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may reduce the non-Federal share below the percentage specified in paragraph (1).

"SEC. 206. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

"In promulgating rules, regulations, and procedures for assistance under this title, the Secretary shall ensure that—

"(1) the relative needs of eligible areas are given adequate consideration by the Secretary, as determined based on, among other relevant factors—

"(A) the severity of the rates of unemployment in the eligible areas and the duration of the unemployment;

"(B) the income levels and the extent of underemployment in eligible areas; and

"(C) the outmigration of population from eligible areas and the extent to which the outmigration is causing economic injury in the eligible areas; and

"(2) allocations of assistance under this title are prioritized to ensure that the level of economic distress of an area, rather than a preference for a geographic area or a specific type of economic distress, is the primary factor in allocating the assistance.

"SEC. 207. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—

"(1) GRANTS.—On the application of an eligible recipient, the Secretary may make grants for training, research, and technical assistance, including grants for program evaluation and economic impact analyses, that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment.

"(2) TYPES OF ASSISTANCE.—Grants under paragraph (1) may be used for—

"(A) project planning and feasibility studies;

"(B) demonstrations of innovative activities or strategic economic development investments;

"(C) management and operational assistance;

"(D) establishment of university centers;

"(E) establishment of business outreach centers;

"(F) studies evaluating the needs of, and development potential for, economic growth of areas that the Secretary determines have substantial need for the assistance; and

"(G) other activities determined by the Secretary to be appropriate.

"(3) REDUCTION OR WAIVER OF NON-FEDERAL SHARE.—In the case of a project assisted under this section, the Secretary may reduce or waive the non-Federal share, without regard to section 204 or 205, if the Secretary finds that the project is not feasible without, and merits, such a reduction or waiver.

"(b) METHODS OF PROVISION OF ASSISTANCE.—In providing research and technical assistance under this section, the Secretary, in addition to making grants under subsection (a), may—

"(1) provide research and technical assistance through officers or employees of the Department;

"(2) pay funds made available to carry out this section to Federal agencies; or

"(3) employ private individuals, partnerships, businesses, corporations, or appropriate institutions under contracts entered into for that purpose.

"SEC. 208. PREVENTION OF UNFAIR COMPETITION.

"No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

"SEC. 209. GRANTS FOR ECONOMIC ADJUSTMENT.

"(a) IN GENERAL.—On the application of an eligible recipient, the Secretary may make grants for development of public facilities, public services, business development (including funding of a revolving loan fund), planning, technical assistance, training, and any other assistance to alleviate long-term economic deterioration and sudden and severe economic dislocation and further the economic adjustment objectives of this title.

"(b) CRITERIA FOR ASSISTANCE.—The Secretary may provide assistance under this section only if the Secretary determines that—

"(1) the project will help the area to meet a special need arising from—

"(A) actual or threatened severe unemployment; or

"(B) economic adjustment problems resulting from severe changes in economic conditions; and

"(2) the area for which a project is to be carried out has a comprehensive economic development strategy and the project is consistent with the strategy, except that this paragraph shall not apply to planning projects.

"(c) PARTICULAR COMMUNITY ASSISTANCE.—Assistance under this section may include assistance provided for activities identified by communities, the economies of which are injured by—

"(1) military base closures or realignments, defense contractor reductions in force, or Department of Energy defense-related funding reductions, for help in diversifying their economies through projects to be carried out on Federal Government installations or elsewhere in the communities;

"(2) disasters or emergencies, in areas with respect to which a major disaster or emergency has been declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), for post-disaster economic recovery;

"(3) international trade, for help in economic restructuring of the communities; or

"(4) fishery failures, in areas with respect to which a determination that there is a commercial fishery failure has been made under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)).

"(d) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.—

"(1) IN GENERAL.—Subject to paragraph (2), an eligible recipient of a grant under this section may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(2) LIMITATION.—Under paragraph (1), an eligible recipient may not provide any grant to a private for-profit entity.

"SEC. 210. CHANGED PROJECT CIRCUMSTANCES.

"In any case in which a grant (including a supplementary grant described in section 205) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a project, and, after the grant has been made but before completion of the project, the purpose or scope of the project that was the basis of the grant is modified, the Secretary may approve, subject (except for a grant for which funds were obligated in fiscal year 1995) to the availability of appropriations, the use of grant funds for the modified project if the Secretary determines that—

"(1) the modified project meets the requirements of this title and is consistent with the comprehensive economic development strategy submitted as part of the application for the grant; and

"(2) the modifications are necessary to enhance economic development in the area for which the project is being carried out.

"SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"In any case in which a grant (including a supplementary grant described in section 205) has been made by the Secretary under this title (or made under this Act, as in effect on the day before the effective date of the Economic Development Administration Reform Act of 1998) for a construction project, and, after the grant has been made but before completion of the project, the cost of the project based on the designs and specifications that was the basis of the grant has decreased because of decreases in costs—

"(1) the Secretary may approve, subject to the availability of appropriations, the use of the excess funds or a portion of the funds to improve the project; and

"(2) any amount of excess funds remaining after application of paragraph (1) shall be deposited in the general fund of the Treasury.

"SEC. 212. REPORTS BY RECIPIENTS.

"(a) IN GENERAL.—Each recipient of assistance under this title shall submit reports to the Secretary at such intervals and in such manner as the Secretary shall require by regulation, except that no report shall be required to be submitted more than 10 years after the date of closeout of the assistance award.

"(b) CONTENTS.—Each report shall contain an evaluation of the effectiveness of the economic assistance provided under this title in meeting the need that the assistance was designed to address and in meeting the objectives of this Act.

"SEC. 213. PROHIBITION ON USE OF FUNDS FOR ATTORNEY'S AND CONSULTANT'S FEES.

"Assistance made available under this title shall not be used directly or indirectly for an attorney's or consultant's fee incurred in connection with obtaining grants and contracts under this title.

"TITLE III—ELIGIBILITY; COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

"SEC. 301. ELIGIBILITY OF AREAS.

"(a) IN GENERAL.—For a project to be eligible for assistance under section 201 or 209, the project shall be located in an area that, on the date of submission of the application, meets 1 or more of the following criteria:

"(1) LOW PER CAPITA INCOME.—The area has a per capita income of 80 percent or less of the national average.

"(2) UNEMPLOYMENT RATE ABOVE NATIONAL AVERAGE.—The area has an unemployment rate that is, for the most recent 24-month period for which data are available, at least 1 percent greater than the national average unemployment rate.

"(3) UNEMPLOYMENT OR ECONOMIC ADJUSTMENT PROBLEMS.—The area is an area that the Secretary determines has experienced or is about to experience a special need arising from actual or threatened severe unemployment or economic adjustment problems resulting from severe short-term or long-term changes in economic conditions.

"(b) POLITICAL BOUNDARIES OF AREAS.—An area that meets 1 or more of the criteria of subsection (a), including a small area of poverty or high unemployment within a larger community in less economic distress, shall be eligible for assistance under section 201 or 209 without regard to political or other subdivisions or boundaries.

"(c) DOCUMENTATION.—

"(1) IN GENERAL.—A determination of eligibility under subsection (a) shall be supported by the most recent Federal data available, or, if no recent Federal data is available, by the most recent data available through the government of the State in which the area is located.

"(2) ACCEPTANCE BY SECRETARY.—The documentation shall be accepted by the Secretary unless the Secretary determines that the documentation is inaccurate.

"(d) PRIOR DESIGNATIONS.—Any designation of a redevelopment area made before the effective date of the Economic Development Administration Reform Act of 1998 shall not be effective after that effective date.

"SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

"(a) IN GENERAL.—The Secretary may provide assistance under section 201 or 209 (except for planning assistance under section 209) to an eligible recipient for a project only if the eligible recipient submits to the Secretary, as part of an application for the assistance—

"(1) an identification of the economic development problems to be addressed using the assistance;

"(2) an identification of the past, present, and projected future economic development investments in the area receiving the assistance and public and private participants and sources of funding for the investments; and

"(3)(A) a comprehensive economic development strategy for addressing the economic problems identified under paragraph (1) in a manner that promotes economic development and opportunity, fosters effective transportation access, enhances and protects the environment, and balances resources through sound management of development; and

"(B) a description of how the strategy will solve the problems.

"(b) APPROVAL OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGY.—The Secretary shall approve a comprehensive economic development strategy that meets the requirements of subsection (a) to the satisfaction of the Secretary.

"(c) APPROVAL OF OTHER PLAN.—The Secretary may accept as a comprehensive economic development strategy a satisfactory plan developed under another federally supported program.

"TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

"SEC. 401. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.

"(a) IN GENERAL.—In order that economic development projects of broad geographic significance may be planned and carried out, the Secretary may designate appropriate economic development districts in the United States, with the concurrence of the States in which the districts will be wholly or partially located, if—

"(1) the proposed district is of sufficient size or population, and contains sufficient resources, to foster economic development on a scale involving more than a single area described in section 301(a);

"(2) the proposed district contains at least 1 area described in section 301(a); and

"(3) the proposed district has a comprehensive economic development strategy that—

"(A) contains a specific program for intradistrict cooperation, self-help, and public investment; and

"(B) is approved by each affected State and by the Secretary.

"(b) AUTHORITIES.—The Secretary may, under regulations promulgated by the Secretary—

"(1) invite the States to determine boundaries for proposed economic development districts;

"(2) cooperate with the States—

"(A) in sponsoring and assisting district economic planning and economic development groups; and

"(B) in assisting the district groups in formulating comprehensive economic development strategies for districts; and

"(3) encourage participation by appropriate local government entities in the economic development districts.

"SEC. 402. TERMINATION OR MODIFICATION OF ECONOMIC DEVELOPMENT DISTRICTS.

"The Secretary shall, by regulation, promulgate standards for the termination or modification of the designation of economic development districts.

"SEC. 403. INCENTIVES.

"(a) IN GENERAL.—Subject to the non-Federal share requirement under section 205(c)(1), the Secretary may increase the amount of grant assistance for a project in an economic development district by an amount that does not exceed 10 percent of the cost of the project, in accordance with such regulations as the Secretary shall promulgate, if—

"(1) the project applicant is actively participating in the economic development activities of the district; and

"(2) the project is consistent with the comprehensive economic development strategy of the district.

"(b) REVIEW OF INCENTIVE SYSTEM.—In promulgating regulations under subsection (a), the Secretary shall review the current incentive system to ensure that the system is administered in the most direct and effective manner to achieve active participation by project applicants in the economic development activities of economic development districts.

"SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO APPALACHIAN REGIONAL COMMISSION.

"If any part of an economic development district is in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)), the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the Appalachian Regional Commission established under that Act.

"SEC. 405. ASSISTANCE TO PARTS OF ECONOMIC DEVELOPMENT DISTRICTS NOT IN ELIGIBLE AREAS.

"Notwithstanding section 301, the Secretary may provide such assistance as is available under this Act for a project in a part of an economic development district that is not in an area described in section 301(a), if the project will be of a substantial direct benefit to an area described in section 301(a) that is located in the district.

"TITLE V—ADMINISTRATION

"SEC. 501. ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT.

"(a) IN GENERAL.—The Secretary shall carry out this Act through an Assistant Secretary of Commerce for Economic Development, to be appointed by the President, by and with the advice and consent of the Senate.

"(b) COMPENSATION.—The Assistant Secretary of Commerce for Economic Development shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) DUTIES.—The Assistant Secretary of Commerce for Economic Development shall carry out such duties as the Secretary shall require and shall serve as the administrator of the Economic Development Administration of the Department.

"SEC. 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

"In carrying out this Act, the Secretary shall—

"(1) maintain a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal and State governments, including political subdivisions of States;

"(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal, State, and local laws in locating and applying for the assistance; and

"(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas.

"SEC. 503. CONSULTATION WITH OTHER PERSONS AND AGENCIES.

"(a) CONSULTATION ON PROBLEMS RELATING TO EMPLOYMENT.—The Secretary may consult with any persons, including representatives of labor, management, agriculture, and government, who can assist in addressing the problems of area and regional unemployment or underemployment.

"(b) CONSULTATION ON ADMINISTRATION OF ACT.—The Secretary may provide for such consultation with interested Federal agencies as the Secretary determines to be appropriate in the performance of the duties of the Secretary under this Act.

"SEC. 504. ADMINISTRATION, OPERATION, AND MAINTENANCE.

"The Secretary shall approve Federal assistance under this Act only if the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"SEC. 505. BUSINESSES DESIRING FEDERAL CONTRACTS.

"The Secretary may provide the procurement divisions of Federal agencies with a list consisting of—

"(1) the names and addresses of businesses that are located in areas described in section 301(a) and that wish to obtain Federal Government contracts for the provision of supplies or services; and

"(2) the supplies and services that each business provides.

"SEC. 506. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

"(a) IN GENERAL.—The Secretary shall conduct an evaluation of each university center and each economic development district that receives grant assistance under this Act (each referred to in this section as a 'grantee') to assess the grantee's performance and contribution toward retention and creation of employment.

"(b) PURPOSE OF EVALUATIONS OF UNIVERSITY CENTERS.—The purpose of the evaluations of university centers under subsection (a) shall be to determine which university centers are performing well and are worthy of continued grant assistance under this Act, and which should not receive continued assistance, so that university centers that have not previously received assistance may receive assistance.

"(c) TIMING OF EVALUATIONS.—Evaluations under subsection (a) shall be conducted on a continuing basis so that each grantee is evaluated within 3 years after the first award of

assistance to the grantee after the effective date of the Economic Development Administration Reform Act of 1998, and at least once every 3 years thereafter, so long as the grantee receives the assistance.

"(d) EVALUATION CRITERIA.—

"(1) ESTABLISHMENT.—The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

"(2) EVALUATION CRITERIA FOR UNIVERSITY CENTERS.—The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the center's contribution to providing technical assistance, conducting applied research, and disseminating results of the activities of the center.

"(3) EVALUATION CRITERIA FOR ECONOMIC DEVELOPMENT DISTRICTS.—The criteria for evaluation of an economic development district shall, at a minimum, provide for an assessment of management standards, financial accountability, and program performance.

"(e) PEER REVIEW.—In conducting an evaluation of a university center or economic development district under subsection (a), the Secretary shall provide for the participation of at least 1 other university center or economic development district, as appropriate, on a cost-reimbursement basis.

"SEC. 507. NOTIFICATION OF REORGANIZATION.

"Not later than 30 days before the date of any reorganization of the offices, programs, or activities of the Economic Development Administration, the Secretary shall provide notification of the reorganization to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.

"TITLE VI—MISCELLANEOUS

"SEC. 601. POWERS OF SECRETARY.

"(a) IN GENERAL.—In carrying out the duties of the Secretary under this Act, the Secretary may—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) subject to the civil service and classification laws, select, employ, appoint, and fix the compensation of such personnel as are necessary to carry out this Act;

"(3) hold such hearings, sit and act at such times and places, and take such testimony, as the Secretary determines to be appropriate;

"(4) request directly, from any Federal agency, board, commission, office, or independent establishment, such information, suggestions, estimates, and statistics as the Secretary determines to be necessary to carry out this Act (and each Federal agency, board, commission, office, or independent establishment may provide such information, suggestions, estimates, and statistics directly to the Secretary);

"(5) under regulations promulgated by the Secretary—

"(A) assign or sell at public or private sale, or otherwise dispose of for cash or credit, in the Secretary's discretion and on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Secretary in connection with assistance provided under this Act; and

"(B) collect or compromise all obligations assigned to or held by the Secretary in connection with that assistance until such time as the obligations are referred to the Attorney General for suit or collection;

"(6) deal with, complete, renovate, improve, modernize, insure, rent, or sell for cash or credit, on such terms and conditions and for such consideration as the Secretary determines to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary in connection with assistance provided under this Act;

"(7) pursue to final collection, by means of compromise or other administrative action, before referral to the Attorney General, all claims against third parties assigned to the Secretary in connection with assistance provided under this Act;

"(8) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), to the extent appropriate in connection with assistance provided under this Act;

"(9) in addition to any powers, functions, privileges, and immunities otherwise vested in the Secretary, take any action, including the procurement of the services of attorneys by contract, determined by the Secretary to be necessary or desirable in making, purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with assets held in connection with financial assistance provided under this Act;

"(10)(A) employ experts and consultants or organizations as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually;

"(B) compensate individuals so employed, including compensation for travel time; and

"(C) allow individuals so employed, while away from their homes or regular places of business, travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Federal Government service;

"(11) establish performance measures for grants and other assistance provided under this Act, and use the performance measures to evaluate the economic impact of economic development assistance programs under this Act, which establishment and use of performance measures shall be provided by the Secretary through—

"(A) officers or employees of the Department;

"(B) the employment of persons under contracts entered into for such purposes; or

"(C) grants to persons, using funds made available to carry out this Act;

"(12) conduct environmental reviews and incur necessary expenses to evaluate and monitor the environmental impact of economic development assistance provided and proposed to be provided under this Act, including expenses associated with the representation and defense of the actions of the Secretary relating to the environmental impact of the assistance, using any funds made available to carry out section 207;

"(13) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or the property of the Secretary; and

"(14) establish such rules, regulations, and procedures as the Secretary considers appropriate for carrying out this Act.

"(b) DEFICIENCY JUDGMENTS.—The authority under subsection (a)(7) to pursue claims shall include the authority to obtain deficiency judgments or otherwise pursue claims relating to mortgages assigned to the Secretary.

"(c) INAPPLICABILITY OF CERTAIN OTHER REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Secretary as a result of assistance provided under this Act if the premium for the insurance or the amount of the services or supplies does not exceed $1,000.

"(d) PROPERTY INTERESTS.—

"(1) IN GENERAL.—The powers of the Secretary under this section, relating to property acquired by the Secretary in connection with assistance provided under this Act, shall extend to property interests of the Secretary relating to projects approved under—

"(A) this Act;

"(B) title I of the Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.);

"(C) title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); and

"(D) the Community Emergency Drought Relief Act of 1977 (42 U.S.C. 5184 note; Public Law 95–31).

"(2) RELEASE.—The Secretary may release, in whole or in part, any real property interest, or tangible personal property interest, in connection with a grant after the date that is 20 years after the date on which the grant was awarded.

"(e) POWERS OF CONVEYANCE AND EXECUTION.—The power to convey and to execute, in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest in such property acquired by the Secretary under this Act may be exercised by the Secretary, or by any officer or agent appointed by the Secretary for that purpose, without the execution of any express delegation of power or power of attorney.

"SEC. 603. ANNUAL REPORT TO CONGRESS.

"Not later than July 1, 2000, and July 1 of each year thereafter, the Secretary shall submit to Congress a comprehensive and detailed annual report on the activities of the Secretary under this Act during the most recently completed fiscal year.

"SEC. 604. DELEGATION OF FUNCTIONS AND TRANSFER OF FUNDS AMONG FEDERAL AGENCIES.

"(a) DELEGATION OF FUNCTIONS TO OTHER FEDERAL AGENCIES.—The Secretary may—

"(1) delegate to the heads of other Federal agencies such functions, powers, and duties of the Secretary under this Act as the Secretary determines to be appropriate; and

"(2) authorize the redelegation of the functions, powers, and duties by the heads of the agencies.

"(b) TRANSFER OF FUNDS TO OTHER FEDERAL AGENCIES.—Funds authorized to be appropriated to carry out this Act may be transferred between Federal agencies, if the funds are used for the purposes for which the funds are specifically authorized and appropriated.

"(c) TRANSFER OF FUNDS FROM OTHER FEDERAL AGENCIES.—

"(1) IN GENERAL.—Subject to paragraph (2), for the purposes of this Act, the Secretary may accept transfers of funds from other Federal agencies if the funds are used for the purposes for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated.

"(2) USE OF FUNDS.—The transferred funds—

"(A) shall remain available until expended; and

"(B) may, to the extent necessary to carry out this Act, be transferred to and merged by the Secretary with the appropriations for salaries and expenses.

"SEC. 605. PENALTIES.

"(a) FALSE STATEMENTS; SECURITY OVERVALUATION.—A person that makes any statement that the person knows to be false, or willfully overvalues any security, for the purpose of—

"(1) obtaining for the person or for any applicant any financial assistance under this Act or any extension of the assistance by renewal, deferment, or action, or by any other means, or the acceptance, release, or substitution of security for the assistance;

"(2) influencing in any manner the action of the Secretary; or

"(3) obtaining money, property, or any thing of value, under this Act;

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

"(b) EMBEZZLEMENT AND FRAUD-RELATED CRIMES.—A person that is connected in any capacity with the Secretary in the administration of this Act and that—

"(1) embezzles, abstracts, purloins, or willfully misapplies any funds, securities, or other thing of value, that is pledged or otherwise entrusted to the person;

"(2) with intent to defraud the Secretary or any other person or entity, or to deceive any officer, auditor, or examiner—

"(A) makes any false entry in any book, report, or statement of or to the Secretary; or

"(B) without being duly authorized, draws any order or issue, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

"(3) with intent to defraud, participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, grant, commission, contract, or any other act of the Secretary; or

"(4) gives any unauthorized information concerning any future action or plan of the Secretary that might affect the value of securities, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans, grants, or other assistance from the Secretary;

shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

"SEC. 606. EMPLOYMENT OF EXPEDITERS AND ADMINISTRATIVE EMPLOYEES.

"Assistance shall not be provided by the Secretary under this Act to any business unless the owners, partners, or officers of the business—

"(1) certify to the Secretary the names of any attorneys, agents, and other persons engaged by or on behalf of the business for the purpose of expediting applications made to the Secretary for assistance of any kind, under this Act, and the fees paid or to be paid to the person for expediting the applications; and

"(2) execute an agreement binding the business, for the 2-year period beginning on the date on which the assistance is provided by the Secretary to the business, to refrain from employing, offering any office or employment to, or retaining for professional services, any person who, on the date on which the assistance or any part of the assistance was provided, or within the 1-year period ending on that date—

"(A) served as an officer, attorney, agent, or employee of the Department; and

"(B) occupied a position or engaged in activities that the Secretary determines involved discretion with respect to the granting of assistance under this Act.

"SEC. 607. MAINTENANCE AND PUBLIC INSPECTION OF LIST OF APPROVED APPLICATIONS FOR FINANCIAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall—

"(1) maintain as a permanent part of the records of the Department a list of applications approved for financial assistance under this Act; and

"(2) make the list available for public inspection during the regular business hours of the Department.

"(b) ADDITIONS TO LIST.—The following information shall be added to the list maintained under subsection (a) as soon as an application described in subsection (a)(1) is approved:

"(1) The name of the applicant and, in the case of a corporate application, the name of each officer and director of the corporation.

"(2) The amount and duration of the financial assistance for which application is made.

"(3) The purposes for which the proceeds of the financial assistance are to be used.

"SEC. 608. RECORDS AND AUDITS.

"(a) RECORDKEEPING AND DISCLOSURE REQUIREMENTS.—Each recipient of assistance under this Act shall keep such records as the Secretary shall require, including records that fully disclose—

"(1) the amount and the disposition by the recipient of the proceeds of the assistance;

"(2) the total cost of the project in connection with which the assistance is given or used;

"(3) the amount and nature of the portion of the cost of the project provided by other sources; and

"(4) such other records as will facilitate an effective audit.

"(b) ACCESS TO BOOKS FOR EXAMINATION AND AUDIT.—The Secretary, the Inspector General of the Department, and the Comptroller General of the United States, or any duly authorized representative, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that relate to assistance received under this Act.

"SEC. 609. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

"(a) PREVIOUSLY AUTHORIZED ASSISTANCE.—Except as otherwise provided in this Act, all financial and technical assistance authorized under this Act shall be in addition to any Federal assistance authorized before the effective date of the Economic Development Administration Reform Act of 1998.

"(b) ASSISTANCE UNDER OTHER ACTS.—Nothing in this Act authorizes or permits any reduction in the amount of Federal assistance that any State or other entity eligible under this Act is entitled to receive under any other Act.

"SEC. 610. ACCEPTANCE OF CERTIFICATIONS BY APPLICANTS.

"Under terms and conditions determined by the Secretary, the Secretary may accept the certifications of an applicant for assistance under this Act that the applicant meets the requirements of this Act.".

(b) TITLE VII.—The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended—

(1) by redesignating section 712 as section 602 and moving that section to appear after section 601 (as amended by subsection (a));

(2) in section 602 (as added by paragraph (1))—

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

"SEC. 602. MAINTENANCE OF STANDARDS.

"All"; and

(B) by striking "sections 101, 201, 202, 403, 903, and 1003" and inserting "this Act"; and

(3) by striking title VII (as amended by paragraph (1)) and inserting the following:

"TITLE VII—FUNDING

"SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this Act $397,969,000 for fiscal year 1999, $368,000,000 for fiscal year 2000, $335,000,000 for fiscal year 2001, $335,000,000 for fiscal year 2002, and $335,000,000 for fiscal year 2003, to remain available until expended.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS FOR DEFENSE CONVERSION ACTIVITIES.

"(a) IN GENERAL.—In addition to amounts made available under section 701, there are authorized to be appropriated such sums as are necessary to carry out section 209(c)(1), to remain available until expended.

"(b) PILOT PROJECTS.—Funds made available under subsection (a) may be used for activities including pilot projects for privatization of, and economic development activities for, closed or realigned military or Department of Energy installations.

"SEC. 703. AUTHORIZATION OF APPROPRIATIONS FOR DISASTER ECONOMIC RECOVERY ACTIVITIES.

"(a) IN GENERAL.—In addition to amounts made available under section 701, there are authorized to be appropriated such sums as are necessary to carry out section 209(c)(2), to remain available until expended.

"(b) FEDERAL SHARE.—The Federal share of the cost of activities funded with amounts made available under subsection (a) shall be up to 100 percent.".

(c) TITLES VIII THROUGH X.—The Public Works and Economic Development Act of 1965 is amended by striking titles VIII through X (42 U.S.C. 3231 et seq.).

SEC. 103. CONFORMING AMENDMENT.

Section 5316 of title 5, United States Code, is amended by striking "Administrator for Economic Development.".

SEC. 104. TRANSITION PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS.—This title, including the amendments made by this title, does not affect the validity of any right, duty, or obligation of the United States or any other person arising under any contract, loan, or other instrument or agreement that was in effect on the day before the effective date of this title.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against any officer or employee of the Economic Development Administration shall abate by reason of the enactment of this title.

(c) LIQUIDATING ACCOUNT.—The Economic Development Revolving Fund established under section 203 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143) (as in effect on the day before the effective date of this title) shall continue to be available to the Secretary of Commerce as a liquidating account (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for payment of obligations and expenses in connection with financial assistance provided under—

(1) the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.);

(2) the Area Redevelopment Act (42 U.S.C. 2501 et seq.); and

(3) the Trade Act of 1974 (19 U.S.C. 2101 et seq.).

(d) ADMINISTRATION.—The Secretary of Commerce shall take such actions authorized before the effective date of this title as

are appropriate to administer and liquidate grants, contracts, agreements, loans, obligations, debentures, or guarantees made by the Secretary under law in effect before the effective date of this title.

SEC. 105. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on a date determined by the Secretary of Commerce, but not later than 90 days after the date of enactment of this Act.

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Appalachian Regional Development Reform Act of 1998".

SEC. 202. FINDINGS AND PURPOSES.

Section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

"(c) 1998 FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress further finds and declares that, while substantial progress has been made in fulfilling many of the objectives of this Act, rapidly changing national and global economies over the past decade have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.

"(2) PURPOSES.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this Act—

"(A) to assist the Appalachian region in—

"(i) providing the infrastructure necessary for economic and human resource development;

"(ii) developing the region's industry;

"(iii) building entrepreneurial communities;

"(iv) generating a diversified regional economy; and

"(v) making the region's industrial and commercial resources more competitive in national and world markets;

"(B) to provide a framework for coordinating Federal, State, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—

"(i) improving the skills of the region's workforce;

"(ii) adapting and applying new technologies for the region's businesses; and

"(iii) improving the access of the region's businesses to the technical and financial resources necessary to development of the businesses; and

"(C) to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.".

SEC. 203. MEETINGS.

(a) ANNUAL MEETING REQUIREMENT.—Section 101 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking "(a) There" and inserting the following:

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—There"; and

(2) by adding at the end the following:

"(2) MEETINGS.—

"(A) IN GENERAL.—The Commission shall conduct at least 1 meeting each year with the Federal Cochairman and at least a majority of the State members present.".

(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—Section 101 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in subsection (a)(2) (as added by subsection (a)(2)), by adding at the end the following:

"(B) ADDITIONAL MEETINGS.—The Commission may conduct such additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote."; and

(2) in the fourth sentence of subsection (c), by striking "to be present".

(c) DECISIONS REQUIRING A QUORUM.—Section 101(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking the third sentence and inserting the following: "A decision involving Commission policy, approval of any State, regional, or subregional development plan or implementing investment program, any modification or revision of the Appalachian Regional Commission Code, any allocation of funds among the States, or any designation of a distressed county or an economically strong county shall not be made without a quorum of the State members.".

SEC. 204. ADMINISTRATIVE EXPENSES.

Section 105 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking "(a) For the period" in the first sentence and all that follows through "such expenses" in the second sentence and inserting "Administrative expenses of the Commission"; and

(2) by striking subsection (b).

SEC. 205. COMPENSATION OF EMPLOYEES.

Section 106(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "the salary of the alternate to the Federal Cochairman on the Commission as provided in section 101" and inserting "the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title".

SEC. 206. ADMINISTRATIVE POWERS OF COMMISSION.

Section 106(7) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "1982" and inserting "2001".

SEC. 207. COST SHARING OF DEMONSTRATION HEALTH PROJECTS.

(a) OPERATION COSTS.—Section 202(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "100 per centum of the costs thereof" in the first sentence and all that follows through the period at the end of the second sentence and inserting "50 percent of the costs of that operation (or 80 percent of those costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226).".

(b) COST SHARING.—Section 202 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

"(f) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

"(1) IN GENERAL.—Subject to paragraph (2), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

"(2) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under paragraph (1) may be increased to the lesser of—

"(A) 80 percent; or

"(B) the maximum Federal contribution percentage authorized by this section.".

(c) TECHNICAL AMENDMENTS.—Section 202 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services"; and

(2) in subsection (c), by striking the last sentence.

SEC. 208. REPEAL OF LAND STABILIZATION, CONSERVATION, AND EROSION CONTROL PROGRAM.

Section 203 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 209. REPEAL OF TIMBER DEVELOPMENT PROGRAM.

Section 204 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 210. REPEAL OF MINING AREA RESTORATION PROGRAM.

Section 205 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 211. REPEAL OF WATER RESOURCE SURVEY.

Section 206 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 212. COST SHARING OF HOUSING PROJECTS.

(a) LOANS.—Section 207(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking "80 per centum" and inserting "50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)".

(b) GRANTS.—Section 207(c)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "80 per centum" and inserting "50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)".

SEC. 213. REPEAL OF AIRPORT SAFETY IMPROVEMENTS PROGRAM.

Section 208 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 214. COST SHARING OF VOCATIONAL EDUCATION AND EDUCATION DEMONSTRATION PROJECTS.

(a) OPERATION COSTS.—Section 211(b)(3) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "100 per centum of the costs thereof" in the first sentence and all that follows through the period at the end of the second sentence and inserting "50 percent of the costs of that operation (or 80 percent of those costs in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226)."

(b) COST SHARING.—Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

"(c) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

"(1) IN GENERAL.—Subject to paragraph (2), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

"(2) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under paragraph (1) may be increased to the lesser of—

"(A) 80 percent; or

"(B) the maximum Federal contribution percentage authorized by this section.".

(c) TECHNICAL AMENDMENTS.—Section 211 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in subsection (a), by striking "Secretary of Health, Education, and Welfare" and inserting "Secretary of Education"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking "Secretary of the Department of Health, Education, and Welfare" and inserting "Secretary of Education"; and

(B) in paragraph (3), by striking the last sentence.

SEC. 215. REPEAL OF SEWAGE TREATMENT WORKS PROGRAM.

Section 212 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 216. REPEAL OF AMENDMENTS TO HOUSING ACT OF 1954.

Section 213 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is repealed.

SEC. 217. SUPPLEMENTS TO FEDERAL GRANT-IN-AID PROGRAMS.

(a) AVAILABILITY OF AMOUNTS.—Section 214(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking "the President is authorized to provide funds to the Federal Cochairman to be used" and inserting "the Federal Cochairman may use amounts made available to carry out this section".

(b) COST SHARING.—Section 214(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking "(b) The Federal" and inserting the following:

"(b) COST SHARING.—

"(1) IN GENERAL.—The Federal"; and

(2) by adding at the end the following:

"(2) MAXIMUM COMMISSION CONTRIBUTION AFTER SEPTEMBER 30, 1998.—

"(A) IN GENERAL.—Subject to subparagraph (B), after September 30, 1998, a Commission contribution of not more than 50 percent of any project cost eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

"(B) DISTRESSED COUNTIES.—In the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226, the maximum Commission contribution under subparagraph (A) may be increased to 80 percent.".

(c) DEFINITION OF FEDERAL GRANT-IN-AID PROGRAMS.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence—

(1) by striking "on or before December 31, 1980,"; and

(2) by striking "Titles I and IX of the Public Works and Economic Development Act of 1965" and inserting "sections 201 and 209 of the Public Works and Economic Development Act of 1965".

(d) LIMITATION ON COVERED ROAD PROJECTS.—Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by inserting "authorized by title 23, United States Code" after "road construction".

SEC. 218. PROGRAM DEVELOPMENT CRITERIA.

(a) CONSIDERATIONS.—Section 224(a)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting before the semicolon at the end the following: "or in a severely and persistently distressed county or area".

(b) OUTCOME MEASUREMENTS.—Section 224(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (5), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.".

(c) REMOVAL OF LIMITATIONS.—Section 224 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (b) and inserting the following:

"(b) LIMITATION.—Financial assistance made available under this Act shall not be used to assist establishments relocating from 1 area to another.".

(d) CONFORMING AMENDMENT.—Section 302(b)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the first sentence by striking "Notwithstanding" and all that follows through "the Commission" and inserting "The Commission".

SEC. 219. DISTRESSED AND ECONOMICALLY STRONG COUNTIES.

Part C of title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

"SEC. 226. DISTRESSED AND ECONOMICALLY STRONG COUNTIES.

"(a) DESIGNATIONS.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Commission, in accordance with such criteria as the Commission may establish, shall—

"(A) designate as 'distressed counties' those counties in the region that are the most severely and persistently distressed; and

"(B) designate 2 categories of economically strong counties, consisting of—

"(i) 'competitive counties', which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

"(ii) 'attainment counties', which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

"(2) ANNUAL REVIEW OF DESIGNATIONS.—The Commission shall—

"(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

"(B) renew the designation for another 1-year period only if the county still meets the criteria.

"(b) DISTRESSED COUNTIES.—In program and project development and implementation and in the allocation of appropriations made available to carry out this Act, the Commission shall give special consideration to the needs of those counties for which a distressed county designation is in effect under this section.

"(c) ECONOMICALLY STRONG COUNTIES.—

"(1) COMPETITIVE COUNTIES.—Except as provided in paragraphs (3) and (4), in the case of a project that is carried out in a county for which a competitive county designation is in effect under this section, assistance under this Act shall be limited to not more than 30 percent of the project cost.

"(2) ATTAINMENT COUNTIES.—Except as provided in paragraphs (3) and (4), no funds may be provided under this Act for a project that is carried out in a county for which an attainment county designation is in effect under this section.

"(3) EXCEPTIONS.—The requirements of paragraphs (1) and (2) shall not apply to—

"(A) any project on the Appalachian development highway system authorized by section 201;

"(B) any local development district administrative project assisted under section 302(a)(1); or

"(C) any multicounty project that is carried out in 2 or more counties designated under this section if—

"(i) at least 1 of the participating counties is designated as a distressed county under this section; and

"(ii) the project will be of substantial direct benefit to 1 or more distressed counties.

"(4) WAIVER.—

"(A) IN GENERAL.—The Commission may waive the requirements of paragraphs (1) and (2) for a project upon a showing by the recipient of assistance for the project of 1 or more of the following:

"(i) The existence of a significant pocket of distress in the part of the county in which the project is carried out.

"(ii) The existence of a significant potential benefit from the project in 1 or more areas of the region outside the designated county.

"(B) REPORTS TO CONGRESS.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.".

SEC. 220. GRANTS FOR ADMINISTRATIVE EXPENSES AND COMMISSION PROJECTS.

(a) AVAILABILITY OF AMOUNTS.—Section 302(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by striking "The President" and inserting "The Commission"; and

(2) in paragraphs (1), (2), and (3), by striking "to the Commission" each place it appears.

(b) COST SHARING.—Section 302(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "75 per centum" and inserting "50 percent"; and

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by striking "(a) The" and inserting the following:

"(a) AUTHORIZATION TO MAKE GRANTS.—

"(1) IN GENERAL.—The";

(4) by adjusting the margins of subparagraphs (A), (B), and (C) (as redesignated by paragraph (2)) to reflect the amendment made by paragraph (3); and

(5) by adding at the end the following:

"(2) COST SHARING AFTER SEPTEMBER 30, 1998.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), after September 30, 1998, not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for financial assistance under this section may be provided from funds appropriated to carry out this Act.

"(B) DISCRETIONARY GRANTS.—

"(i) IN GENERAL.—Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

"(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not exceed 10 percent of the amounts appropriated under section 401 for the fiscal year.".

(c) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(A) in subsection (b)—

(i) in paragraph (2), by striking "Federal Energy Administration, the Energy Research and Development Administration" and inserting "Secretary of Energy"; and

(ii) by striking paragraphs (3) and (4); and

(B) by striking subsections (d) and (e).

(2) Section 210(a) of title 35, United States Code, is amended—

(A) by striking paragraph (11); and

(B) by redesignating paragraphs (12) through (22) as paragraphs (11) through (21), respectively.

SEC. 221. AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended to read as follows:

"SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—In addition to amounts authorized by section 201 and other amounts made available for the Appalachian development highway system program, there are authorized to be appropriated to the Commission to carry out this Act—

"(1) $68,000,000 for fiscal year 1999;

"(2) $69,000,000 for fiscal year 2000; and

"(3) $70,000,000 for fiscal year 2001.

"(b) AVAILABILITY.—Sums made available under subsection (a) shall remain available until expended.".

SEC. 222. EXTENSION OF TERMINATION DATE.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "1982" and inserting "2001".

SEC. 223. TECHNICAL AMENDMENT.

Section 5334(a) of title 5, United States Code, is amended in the second sentence by striking "title 40, appendix, or by a regional commission established pursuant to section 3182 of title 42, under section 3186(a)(2) of that title" and inserting "the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)".

Amend the title so as to read: "A bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.".

WOMEN'S HEALTH RESEARCH AND PREVENTION AMENDMENTS OF 1998

FRIST AMENDMENT NO. 3815

Mr. JEFFORDS (for Mr. FRIST) proposed an amendment to the bill (S. 1722) to amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Health Research and Prevention Amendments of 1998".

TITLE I—PROVISIONS RELATING TO WOMEN'S HEALTH RESEARCH AT NATIONAL INSTITUTES OF HEALTH

SEC. 101. RESEARCH ON DRUG DES; NATIONAL PROGRAM OF EDUCATION.

(a) RESEARCH.—Section 403A(e) of the Public Health Service Act (42 U.S.C. 283a(e)) is amended by striking "1996" and inserting "2003".

(b) NATIONAL PROGRAM FOR EDUCATION OF HEALTH PROFESSIONALS AND PUBLIC.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following:

"EDUCATION REGARDING DES

"SEC. 1710. (a) IN GENERAL.—The Secretary, acting through the heads of the appropriate agencies of the Public Health Service, shall carry out a national program for the education of health professionals and the public with respect to the drug diethylstilbestrol (commonly known as DES). To the extent appropriate, such national program shall use methodologies developed through the education demonstration program carried out under section 403A. In developing and carrying out the national program, the Secretary shall consult closely with representatives of nonprofit private entities that represent individuals who have been exposed to DES and that have expertise in community-based information campaigns for the public and for health care providers. The implementation of the national program shall begin during fiscal year 1999.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 102. RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Section 409A(d) of the Public Health Service Act (42 U.S.C. 284e(d)) is amended by striking "and 1996" and inserting "through 2003".

SEC. 103. RESEARCH ON CANCER.

(a) RESEARCH ON BREAST CANCER.—Section 417B(b)(1) of the Public Health Service Act (42 U.S.C. 286a–8(b)(1)) is amended—

(1) in subparagraph (A), by striking "and 1996" and inserting "through 2003"; and

(2) in subparagraph (B), by striking "and 1996" and inserting "through 2003".

(b) RESEARCH ON OVARIAN AND RELATED CANCER RESEARCH.—Section 417B(b)(2) of the Public Health Service Act (42 U.S.C. 286a–8(b)(2)) is amended by striking "and 1996" and inserting "through 2003".

SEC. 104. RESEARCH ON HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by inserting after section 424 the following:

"HEART ATTACK, STROKE, AND OTHER CARDIOVASCULAR DISEASES IN WOMEN

"SEC. 424A. (a) IN GENERAL.—The Director of the Institute shall expand, intensify, and coordinate research and related activities of the Institute with respect to heart attack, stroke, and other cardiovascular diseases in women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate activities under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to heart attack, stroke, and other cardiovascular diseases in women.

"(c) CERTAIN PROGRAMS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to develop methods for preventing, cardiovascular diseases in women. Activities under such subsection shall include conducting and supporting the following:

"(1) Research to determine the reasons underlying the prevalence of heart attack, stroke, and other cardiovascular diseases in women, including African-American women and other women who are members of racial or ethnic minority groups.

"(2) Basic research concerning the etiology and causes of cardiovascular diseases in women.

"(3) Epidemiological studies to address the frequency and natural history of such diseases and the differences among men and women, and among racial and ethnic groups, with respect to such diseases.

"(4) The development of safe, efficient, and cost-effective diagnostic approaches to evaluating women with suspected ischemic heart disease.

"(5) Clinical research for the development and evaluation of new treatments for women, including rehabilitation.

"(6) Studies to gain a better understanding of methods of preventing cardiovascular diseases in women, including applications of effective methods for the control of blood pressure, lipids, and obesity.

"(7) Information and education programs for patients and health care providers on risk factors associated with heart attack, stroke, and other cardiovascular diseases in women, and on the importance of the prevention or control of such risk factors and timely referral with appropriate diagnosis and treatment. Such programs shall include information and education on health-related behaviors that can improve such important risk factors as smoking, obesity, high blood cholesterol, and lack of exercise.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 105. AGING PROCESSES REGARDING WOMEN.

Section 445H of the Public Health Service Act (42 U.S.C. 285e–10) is amended—

(1) by striking "The Director" and inserting "(a) The Director"; and

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

"(b) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for

each of the fiscal years 1999 through 2003. The authorization of appropriations established in the preceding sentence is in addition to any other authorization of appropriation that is available for such purpose.".

SEC. 106. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

Section 486(d)(2) of the Public Health Service Act (42 U.S.C. 287d(d)(2)) is amended by striking "Director of the Office" and inserting "Director of NIH".

TITLE II—PROVISIONS RELATING TO WOMEN'S HEALTH AT CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306(n) of the Public Health Service Act (42 U.S.C. 242k(n)) is amended—

(1) in paragraph (1), by striking "through 1998" and inserting "through 2003"; and

(2) in paragraph (2), by striking "through 1998" and inserting "through 2003".

SEC. 202. NATIONAL PROGRAM OF CANCER REGISTRIES.

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e–4(a)) is amended by striking "through 1998" and inserting "through 2003".

SEC. 203. NATIONAL BREAST AND CERVICAL CANCER EARLY DETECTION PROGRAM.

(a) SERVICES.—Section 1501(a)(2) of the Public Health Service Act (42 U.S.C. 300k(a)(2)) is amended by inserting before the semicolon the following: "and support services such as case management".

(b) PROVIDERS OF SERVICES.—Section 1501(b) of the Public Health Service Act (42 U.S.C. 300k(b)) is amended—

(1) in paragraph (1), by striking "through grants" and all that follows and inserting the following: "through grants to public and nonprofit private entities and through contracts with public and private entities."; and

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

"(2) CERTAIN APPLICATIONS.—If a nonprofit private entity and a private entity that is not a nonprofit entity both submit applications to a State to receive an award of a grant or contract pursuant to paragraph (1), the State may give priority to the application submitted by the nonprofit private entity in any case in which the State determines that the quality of such application is equivalent to the quality of the application submitted by the other private entity.".

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) SUPPLEMENTAL GRANTS FOR ADDITIONAL PREVENTIVE HEALTH SERVICES.—Section 1509(d)(1) of the Public Health Service Act (42 U.S.C. 300n–4a(d)(1)) is amended by striking "through 1998" and inserting "through 2003".

(2) GENERAL PROGRAM.—Section 1510(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended by striking "through 1998" and inserting "through 2003".

SEC. 204. CENTERS FOR RESEARCH AND DEMONSTRATION OF HEALTH PROMOTION.

Section 1706(e) of the Public Health Service Act (42 U.S.C. 300u–5(e)) is amended by striking "through 1998" and inserting "through 2003".

DRIVE FOR TEEN EMPLOYMENT ACT

JEFFORDS AMENDMENT NO. 3816

Mr. JEFFORDS proposed an amendment to the bill (H.R. 2327) to provide for a change in the exemption from the child labor provisions of the Fair Labor Standards Act of 1938 for minors between 16 and 18 years of age who engage in the operation of automobiles and trucks; as follows:

In section 2 of the bill, strike subsection (b) and insert the following:

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This Act shall become effective on the date of enactment of this Act.

(2) EXCEPTION.—The Amendment made by subsection (a) defining the term "occasional and incidental" shall also apply to any case, action, citation or appeal pending on the date of enactment of this Act unless such case, action, citation or appeal involves property damage or personal injury.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1998

GLENN AMENDMENT NO. 3817

Mr. JEFFORDS (for Mr. GLENN) proposed an amendment to the bill (S. 1642) to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TITLE

This Act may be cited as the "Federal Financial Assistance Management Improvement Act of 1998."

SEC. 2. FINDINGS

The Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public

SEC. 3. PURPOSES

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) to simplify Federal financial assistance application and reporting requirements;

(3) to improve the delivery of services to the public;

(4) to facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term "Federal agency" means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term "Federal financial assistance" has the same meaning as defined in section 7501 (a)(5) of title 31, United States Code under which under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act.

SEC. 5. DUTIES OF FEDERAL AGENCIES

(b) EXTENSION.—If one or more agencies are unable to comply with the requirements of subsection (a), the Director shall report to the Committee on Governmental Affairs of the Senate and the Committee of Government Reform and Oversight of the House of Representatives the reasons for noncompliance. After consultation with such committees, the Director may extend the period for plan development and implementation for each noncompliant agency for up to 12 months.

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-federal entities during development and implementation of the plan. Consultation with representatives of State, local and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR

(a) IN GENERAL.—The Director, in consultation with agency heads, and representatives of non-federal entities, shall direct, coordinate and assist Federal agencies in establishing—

(1) A common application and reporting system, including:

(A) a common application or set of common applications, wherein a non-federal entity can apply for Federal assistance from multiple Federal assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies;

(2) An interagency process for addressing:

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities; and

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal assistance programs, including appropriate information sharing consistent with the Privacy Act of 1974;

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Agencies shall submit to the Director, upon his request and for his review, information and other reporting regarding their implementation of this Act.

(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant under of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which will be available to the public through OMB's Internet site.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The Director (or the lead agency designated under section 6(b)) shall contract with the National Academy of Public Administration to evaluate the effectiveness of this Act. Not later than 4 years after the date of enactment of this Act the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans;

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for view of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET

This Act shall take effect on the date of enactment of this Act and shall cease to be effective five years after such date of enactment.

USDA INFORMATION TECHNOLOGY REFORM AND YEAR—2000 COMPLIANCE ACT OF 1998

LUGAR AMENDMENT NO. 3818

Mr. JEFFORDS (for Mr. COATS) proposed an amendment to the bill (S. 2116) to clarify and enhance the authorities of the Chief Information Officer of the Department of Agriculture; as follows:

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "USDA Information Technology Reform and Year-2000 Compliance Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Management of year-2000 compliance at Department.
Sec. 5. Position of Chief Information Officer.
Sec. 6. Duties and authorities of Chief Information Officer.
Sec. 7. Funding approval by Chief Information Officer.
Sec. 8. Availability of agency information technology funds.
Sec. 9. Authority of Chief Information Officer over information technology personnel.
Sec. 10. Annual Comptroller General report on compliance.
Sec. 11. Office of Inspector General.
Sec. 12. Technical amendment.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) United States agriculture, food safety, the health of plants and animals, the economies of rural communities, international commerce in food, and food aid rely on the Department of Agriculture for the effective and timely administration of program activities essential to their success and vitality;

(2) the successful administration of the program activities depends on the ability of the Department to use information technology in as efficient and effective manner as is technologically feasible;

(3) to successfully administer the program activities, the Department relies on information technology that requires comprehensive and Department-wide overview and control to avoid needless duplication and misuse of resources;

(4) to better ensure the continued success and vitality of agricultural producers and rural communities, it is imperative that measures are taken within the Department to coordinate and centrally plan the use of the information technology of the Department;

(5) because production control and subsidy programs are ending, agricultural producers of the United States need the best possible information to make decisions that will maximize profits, satisfy consumer demand, and contribute to the alleviation of hunger in the United States and abroad;

(6) a single authority for Department-wide planning is needed to ensure that the information technology architecture of the Department is based on the strategic business plans, information technology, management goals, and core business process methodology of the Department;

(7) information technology is a strategic resource for the missions and program activities of the Department;

(8) year-2000 compliance is 1 of the most important challenges facing the Federal Government and the private sector;

(9) because the responsibility for ensuring year-2000 compliance at the Department was initially left to individual offices and agencies, no overall priorities have been established, and there is no assurance that the most important functions of the Department will be operable on January 1, 2000;

(10) it is the responsibility of the Chief Information Officer to provide leadership in—

(A) defining and explaining the importance of achieving year-2000 compliance;

(B) selecting the overall approach for structuring the year-2000 compliance efforts of the Department;

(C) assessing the ability of the information resource management infrastructures of the Department to adequately support the year-2000 compliance efforts; and

(D) mobilizing the resources of the Department to achieve year-2000 compliance;

(11) the failure of the Department to meet the requirement of the Director of the Office of Management and Budget that all mission-critical systems of the Department achieve year-2000 compliance would have serious adverse consequences on the program activities of the Department, the economies of rural communities, the health of the people of the United States, world hunger, and international commerce in agricultural commodities and products;

(12) centralizing the approval authority for planning and investment for information technology in the Office of the Chief Information Officer will—

(A) provide the Department with strong and coordinated leadership and direction;

(B) ensure that the business architecture of an office or agency is based on rigorous core business process methodology;

(C) ensure that the information technology architecture of the Department is based on the strategic business plans of the offices or agencies and the missions of the Department;

(D) ensure that funds will be invested in information technology only after the Chief Information Officer has determined that—

(i) the planning and review of future business requirements of the office or agency are complete; and

(ii) the information technology architecture of the office or agency is based on business requirements and is consistent with the Department-wide information technology architecture; and

(E) cause the Department to act as a single enterprise with respect to information technology, thus eliminating the duplication and inefficiency associated with a single office- or agency-based approach; and

(13) consistent with the Information Technology Management Reform Act of 1996 (40 U.S.C. 1401 et seq.), each office or agency of the Department should achieve at least—

(A) a 5 percent per year decrease in costs incurred for operation and maintenance of information technology; and

(B) a 5 percent per year increase in operational efficiency through improvements in information resource management.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the successful administration of programs and activities of the Department through the creation of a centralized office, and Chief Information Officer position, in the Department to provide strong and innovative managerial leadership to oversee the planning, funding, acquisition, and management of information technology and information resource management; and

(2) to provide the Chief Information Officer with the authority and funding necessary to correct the year-2000 compliance problem of the Department.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHIEF INFORMATION OFFICER.—The term "Chief Information Officer" means the individual appointed by the Secretary to serve as Chief Information Officer (as established by section 5125 of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1425)) for the Department.

(2) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(3) INFORMATION RESOURCE MANAGEMENT.—The term "information resource management" means the process of managing information resources to accomplish agency missions and to improve agency performance.

(4) INFORMATION TECHNOLOGY.—

(A) IN GENERAL.—The term "information technology" means any equipment or interconnected system or subsystem of equipment that is used by an office or agency in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

(B) USE OF EQUIPMENT.—For purposes of subparagraph (A), equipment is used by an office or agency if the equipment is used by—

(i) the office or agency directly; or

(ii) a contractor under a contract with the office or agency—

(I) that requires the use of the equipment; or

(II) to a significant extent, that requires the use of the equipment in the performance of a service or the furnishing of a product.

(C) INCLUSIONS.—The term "information technology" includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(D) EXCLUSIONS.—The term "information technology" does not include any equipment that is acquired by a Federal contractor that is incidental to a Federal contract.

(5) INFORMATION TECHNOLOGY ARCHITECTURE.—The term "information technology architecture" means an integrated framework for developing or maintaining existing information technology, and acquiring new information technology, to achieve or effectively use the strategic business plans, information resources, management goals, and core business processes of the Department.

(6) OFFICE OR AGENCY.—The term "office or agency" means, as applicable, each—

(A) national, regional, county, or local office or agency of the Department;

(B) county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5));

(C) State committee, State office, or field service center of the Department; and

(D) group of multiple offices and agencies of the Department that are, or will be, connected through common program activities or systems of information technology.

(7) PROGRAM ACTIVITY.—The term "program activity" means a specific activity or project of a program that is carried out by 1 or more offices or agencies of the Department.

(8) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(9) YEAR-2000 COMPLIANCE.—The term "year-2000 compliance", with respect to the Department, means a condition in which information systems are able to accurately process data relating to the 20th and 21st centuries—

(A) within the Department;

(B) between the Department and local and State governments;

(C) between the Department and the private sector;

(D) between the Department and foreign governments; and

(E) between the Department and the international private sector.

SEC. 4. MANAGEMENT OF YEAR-2000 COMPLIANCE AT DEPARTMENT.

(a) FINDING.—Congress finds that the Chief Information Officer of the Department has not been provided the funding and authority necessary to adequately manage the year-2000 compliance problem at the Department.

(b) MANAGEMENT.—The Chief Information Officer shall provide the leadership and innovative management within the Department to—

(1) identify, prioritize, and mobilize the resources needed to achieve year-2000 compliance;

(2) coordinate the renovation of computer systems through conversion, replacement, or retirement of the systems;

(3) develop verification and validation strategies (within the Department and by independent persons) for converted or replaced computer systems;

(4) develop contingency plans for mission-critical systems in the event of a year-2000 compliance system failure;

(5) coordinate outreach between computer systems of the Department and computer systems in—

(A) the domestic private sector;

(B) State and local governments;

(C) foreign governments; and

(D) the international private sector, such as foreign banks;

(6) identify, prioritize, and mobilize the resources needed to correct periodic date problems in computer systems within the Department and between the Department and outside computer systems; and

(7) during the period beginning on the date of enactment of this Act and ending on June 1, 2000, consult, on a quarterly basis, with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on actions taken to carry out this section.

(c) FUNDING AND AUTHORITIES.—To carry out subsection (b), the Chief Information Officer shall use—

(1) the authorities in sections 7, 8, and 9, particularly the authority to approve the transfer or obligation of funds described in section 7(a) intended for information technology and information resource management; and

(2) the transferred funds targeted by offices and agencies for information technology and information resource management under section 8.

SEC. 5. POSITION OF CHIEF INFORMATION OFFICER.

(a) ESTABLISHMENT.—To ensure the highest quality and most efficient planning, acquisition, administration, and management of information technology within the Department, there is established the position of the Chief Information Officer of the Department.

(b) CONFIRMATION.—

(1) IN GENERAL.—The position of the Chief Information Officer shall be appointed by the President, by and with the advice and consent of the Senate.

(2) SUCCESSION.—An official who is serving as Chief Information Officer on the date of enactment of this Act shall not be required to be reappointed by the President.

(c) REPORT.—The Chief Information Officer shall report directly to the Secretary.

(d) POSITION ON EXECUTIVE INFORMATION TECHNOLOGY INVESTMENT REVIEW BOARD.—The Chief Information Officer shall serve as an officer of the Executive Information Technology Investment Review Board (or its successor).

SEC. 6. DUTIES AND AUTHORITIES OF CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—Notwithstanding any other provision of law (except the Government Performance and Results Act of 1993 (Public Law 103-62), amendments made by that Act, and the Information Technology Management Reform Act of 1996 (40 U.S.C. 1401 et seq.)) and policies and procedures of the Department, in addition to the general authorities provided to the Chief Information Officer by section 5125 of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1425), the Chief Information Officer shall have the authorities and duties within the Department provided in this Act.

(b) INFORMATION TECHNOLOGY ARCHITECTURE.—

(1) IN GENERAL.—To ensure the efficient and effective implementation of program activities of the Department, the Chief Information Officer shall ensure that the information technology architecture of the Department, and each office or agency, is based on the strategic business plans, information resources, goals of information resource management, and core business process methodology of the Department.

(2) DESIGN AND IMPLEMENTATION.—The Chief Information Officer shall manage the design and implementation of an information technology architecture for the Department in a manner that ensures that—

(A) the information technology systems of each office or agency maximize—

(i) the effectiveness and efficiency of program activities of the Department;

(ii) quality per dollar expended; and

(iii) the efficiency and coordination of information resource management among offices or agencies, including the exchange of information between field service centers of the Department and each office or agency;

(B) the planning, transfer or obligation of funds described in section 7(a), and acquisition of information technology, by each office or agency most efficiently satisfies the needs of the office or agency in terms of the customers served, and program activities and employees affected, by the information technology; and

(C) the information technology of each office or agency is designed and managed to coordinate or consolidate similar functions of the missions of the Department and offices or agencies, on a Department-wide basis.

(3) COMPLIANCE WITH RESULTING ARCHITECTURE.—The Chief Information Officer shall—

(A) if determined appropriate by the Chief Information Officer, approve the transfer or obligation of funds described in section 7(a) in connection with information technology architecture for an office or agency; and

(B) be responsible for the development, acquisition, and implementation of information technology by an office or agency in a manner that—

(i) is consistent with the information technology architecture designed under paragraph (2);

(ii) results in the most efficient and effective use of information technology of the office or agency; and

(iii) maximizes the efficient delivery and effectiveness of program activities of the Department.

(4) FIELD SERVICE CENTERS.—The Chief Information Officer shall ensure that the information technology architecture of the Department facilitates the design, acquisition, and deployment of an open, flexible common computing environment for the field service centers of the Department that—

(A) is based on strategic goals, business reengineering, and integrated program delivery;

(B) is flexible enough to accommodate and facilitate future business and organizational changes;

(C) provides maximum data sharing, interoperability, and communications capability with other Department, Federal, and State agencies and customers; and

(D) results in significant reductions in annual operating costs.

(c) EVALUATION OF PROPOSED INFORMATION TECHNOLOGY INVESTMENTS.—

(1) IN GENERAL.—In consultation with the Executive Information Technology Investment Review Board (or its successor), the Chief Information Officer shall adopt criteria to evaluate proposals for information technology investments that are applicable to individual offices or agencies or are applicable Department-wide.

(2) CRITERIA.—The criteria adopted under paragraph (1) shall include consideration of—

(A) whether the function to be supported by the investment should be performed by the private sector, negating the need for the investment;

(B) the Department-wide or Government-wide impacts of the investment;

(C) the costs and risks of the investment;

(D) the consistency of the investment with the information technology architecture;

(E) the interoperability of information technology or information resource management in offices or agencies; and

(F) whether the investment maximizes the efficiency and effectiveness of program activities of the Department.

(3) EVALUATION OF INFORMATION TECHNOLOGY AND INFORMATION RESOURCE MANAGEMENT.—

(A) IN GENERAL.—In consultation with the Executive Information Technology Investment Review Board (or its successor), the Chief Information Officer shall monitor and evaluate the information resource management practices of offices or agencies with respect to the performance and results of the information technology investments made by the offices or agencies.

(B) GUIDELINES FOR EVALUATION.—The Chief Information Officer shall issue Departmental regulations that provide guidelines for—

(i) establishing whether the program activity of an office or agency that is proposed to be supported by the information technology investment should be performed by the private sector;

(ii)(I) analyzing the program activities of the office or agency and the mission of the office or agency; and

(II) based on the analysis, revising the mission-related and administrative processes of the office or agency, as appropriate, before making significant investments in information technology to be used in support of the program activities and mission of the office or agency;

(iii) establishing effective and efficient capital planning for selecting, managing, and evaluating the results of all major investments in information technology by the Department;

(iv) ensuring compliance with governmental and Department-wide policies, regulations, standards, and guidelines that relate to information technology and information resource management;

(v) identifying potential information resource management problem areas that could prevent or delay delivery of program activities of the office or agency;

(vi) validating that information resource management of the office or agency facilitates—

(I) strategic goals of the office or agency;

(II) the mission of the office or agency; and

(III) performance measures established by the office or agency; and

(vii) ensuring that the information security policies, procedures, and practices for the information technology are sufficient.

(d) ELECTRONIC FUND TRANSFERS.—The Chief Information Officer shall ensure that the information technology architecture of the Department complies with the requirement of section 3332 of title 31, United States Code, that certain current, and all future payments after January 1, 1999, be tendered through electronic fund transfer.

(e) DEPARTMENTAL REGULATIONS.—The Chief Information Officer shall issue such Departmental regulations as the Chief Information Officer considers necessary to carry out this Act within all offices and agencies.

(f) REPORT.—Not later than March 1 of each year through March 1, 2003, the Chief Information Officer shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that includes—

(1) an evaluation of the current and future information technology directions and needs of the Department;

(2) an accounting of—

(A) each transfer or obligation of funds described in section 7(a), and each outlay of funds, for information technology or information resource management by each office or agency for the past fiscal year; and

(B) each transfer or obligation of funds described in section 7(a) for information technology or information resource management by each office or agency known or estimated for the current and future fiscal years;

(3) a summary of an evaluation of information technology and information resource management applicable Department-wide or to an office or agency; and

(4) a copy of the annual report to the Secretary by the Chief Information Officer that is required by section 5125(c)(3) of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1425(c)(3)).

SEC. 7. FUNDING APPROVAL BY CHIEF INFORMATION OFFICER.

(a) IN GENERAL.—Notwithstanding any other provision of law, an office or agency, without the prior approval of the Chief Information Officer, shall not—

(1) transfer funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation or any other corporation within the Department) from 1 account of a fund or office or agency to another account of a fund or office or agency for the purpose of investing in information technology or information resource management involving planning, evaluation, or management, providing services, or leasing or purchasing personal property (including all hardware and software) or services;

(2) obligate funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation or any other corporation within the Department) for the purpose of investing in information technology or information resource management involving planning, evaluation, or management, providing services, or leasing or purchasing personal property (including all hardware and software) or services; or

(3) obligate funds (including appropriated funds, mandatory funds, and funds of the Commodity Credit Corporation) for the purpose of investing in information technology or information resource management involving planning, evaluation, or management, providing services, or leasing or purchasing personal property (including all hardware and software) or services, obtained through a contract, cooperative agreement, reciprocal agreement, or any other type of agreement with an agency of the Federal Government, a State, the District of Columbia, or any person in the private sector.

(b) DISCRETION OF CHIEF INFORMATION OFFICER.—The Chief Information Officer may, by Departmental regulation, waive the requirement under subsection (a) applicable to, as the Chief Information Officer determines is appropriate for the office or agency—

(1) the transfer or obligation of funds described in subsection (a) in an amount not to exceed $200,000; or

(2) a specific class or category of information technology.

(c) CONDITIONS FOR APPROVAL OF FUNDING.—Under subsection (a), the Chief Information Officer shall not approve the transfer or obligation of funds described in subsection (a) with respect to an office or agency unless the Chief Information Officer determines that—

(1) the proposed transfer or obligation of funds described in subsection (a) is consistent with the information technology architecture of the Department;

(2) the proposed transfer or obligation of funds described in subsection (a) for information technology or information resource management is consistent with and maximizes the achievement of the strategic business plans of the office or agency;

(3) the proposed transfer or obligation of funds described in subsection (a) is consistent with the strategic business plan of the office or agency; and

(4) to the maximum extent practicable, economies of scale are realized through the proposed transfer or obligation of funds described in subsection (a).

(d) CONSULTATION WITH EXECUTIVE INFORMATION TECHNOLOGY INVESTMENT REVIEW BOARD.—To the maximum extent practicable, as determined by the Chief Information Officer, prior to approving a transfer or obligation of funds described in subsection (a) for information technology or information resource management, the Chief Information Officer shall consult with the Executive Information Technology Investment Review Board (or its successor) concerning whether the investment—

(1) meets the objectives of capital planning processes for selecting, managing, and evaluating the results of major investments in information technology or information resource management; and

(2) links the affected strategic plan with the information technology architecture of the Department.

SEC. 8. AVAILABILITY OF AGENCY INFORMATION TECHNOLOGY FUNDS.

(a) TRANSFER.—

(1) IN GENERAL.—At the beginning of each fiscal year, the Secretary shall transfer to the appropriations account of the Chief Information Officer an amount of funds of an office or agency determined under paragraph (2).

(2) AMOUNT.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount of funds of an office or agency for a fiscal year transferred under paragraph (1) may be up to 10 percent of the discretionary funds made available for that fiscal year by the office or agency for information technology or information resource management.

(B) ADJUSTMENT.—The Secretary may adjust the amount to be transferred from the funds of an office or agency for a fiscal year to the extent that the estimate for a prior fiscal year was in excess of, or less than, the amount actually expended by the office or agency for information technology or information resource management.

(b) AVAILABILITY OF FUNDS.—

(1) TRANSFER.—The Chief Information Officer may transfer unexpended funds to an office or agency.

(2) USE.—Funds transferred under paragraph (1) shall only be used for information technology or information resource management.

(c) USE OF FUNDS.—Funds transferred under subsection (a) shall be used by the Chief Information Officer—

(1) to carry out the duties and authorities of the Chief Information Officer under—

(A) this Act;

(B) section 5125 of the Information Technology Management Reform Act of 1996 (40 U.S.C. 1425); and

(C) section 3506 of title 44, United States Code;

(2) to direct and control the planning, transfer or obligation of funds described in section 7(a), and administration of information technology or information resource management by an office or agency;

(3) to meet the requirement of the Director of the Office and Management and Budget that all mission-critical systems achieve year-2000 compliance; or

(4) to pay the salaries and expenses of all personnel and functions of the office of the Chief Information Officer.

(d) TERMINATION OF AUTHORITY.—The authority under this section terminates on September 30, 2003.

SEC. 9. AUTHORITY OF CHIEF INFORMATION OFFICER OVER INFORMATION TECHNOLOGY PERSONNEL.

(a) AGENCY CHIEF INFORMATION OFFICERS.—

(1) ESTABLISHMENT.—Subject to the concurrence of the Chief Information Officer, the head of each office or agency shall establish within the office or agency the position of Agency Chief Information Officer and shall appoint an individual to that position.

(2) RELATIONSHIP TO HEAD OF OFFICE OR AGENCY.—The Agency Chief Information Officer shall—

(A) report to the head of the office or agency; and

(B) regularly update the head of the office or agency on the status of year-2000 compliance and other significant information technology issues.

(3) PERFORMANCE REVIEW.—The Chief Information Officer shall—

(A) provide input for the performance review of an Agency Chief Information Officer of an office or agency;

(B) annually review and assess the information technology functions of the office or agency; and

(C) provide a report on the review and assessment to the Under Secretary or Assistant Secretary for the office or agency.

(4) DUTIES.—The Agency Chief Information Officer of an office or agency shall be responsible for carrying out the policies and procedures established by the Chief Information Officer for that office or agency, the Administrator for the office or agency, and the Under Secretary or Assistant Secretary for the office or agency.

(b) MANAGERS OF MAJOR INFORMATION TECHNOLOGY PROJECTS.—

(1) IN GENERAL.—The assignment, and continued eligibility for the assignment, of an employee of the Department to serve as manager of a major information technology project (as defined by the Chief Information Officer) of an office or agency, shall be subject to the approval of the Chief Information Officer.

(2) PERFORMANCE REVIEW.—The Chief Information Officer shall provide input into the performance review of a manager of a major information technology project.

(c) DETAIL AND ASSIGNMENT OF PERSONNEL.—Notwithstanding any other provision of law, an employee of the Department may be detailed to the Office of the Chief Information Officer for a period of more than 30 days without reimbursement by the Office of the Chief Information Officer to the office or agency from which the employee is detailed.

(d) INFORMATION TECHNOLOGY PROCUREMENT OFFICERS.—A procurement officer of an office or agency shall procure information technology for the office or agency in a manner that is consistent with the Departmental regulations issued by the Chief Information Officer.

SEC. 10. ANNUAL COMPTROLLER GENERAL REPORT ON COMPLIANCE.

(a) REPORT.—Not later than May 15 of each year through May 15, 2003, in coordination with the Inspector General of the Department, the Comptroller General of the United States shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report evaluating the compliance with this Act in the past fiscal year by the Chief Information Officer and each office or agency.

(b) CONTENTS OF REPORT.—Each report shall include—

(1) an audit of the transfer or obligation of funds described in section 7(a) and outlays by an office or agency for the fiscal year;

(2) an audit and evaluation of the compliance of the Chief Information Officer with the requirements of section 8(c);

(3) a review and evaluation of the performance of the Chief Information Officer under this Act; and

(4) a review and evaluation of the success of the Department in—

(A) creating a Department-wide information technology architecture; and

(B) complying with the requirement of the Director of the Office of Management and Budget that all mission-critical systems of an office or agency achieve year-2000 compliance.

SEC. 11. OFFICE OF INSPECTOR GENERAL.

(a) IN GENERAL.—The Office of Inspector General of the Department shall be exempt from the requirements of this Act.

(b) REPORT.—The Inspector General of the Department shall semiannually submit a report to the Committee on Agriculture and the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the progress of the Office of Inspector General regarding—

(1) year-2000 compliance; and

(2) the establishment of an information technology architecture for the Office of Inspector General of the Department.

SEC. 12. TECHNICAL AMENDMENT.

Section 13 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714k) is amended in the second sentence by striking "section 5 or 11" and inserting "section 4, 5, or 11".

ADDITIONAL STATEMENTS

JOAN'S LAW

• Mr. TORRICELLI. Mr. President, on behalf of the family and friends of Joan D'Alessandro, I want to express gratitude for the passage of Joan's Law, a bill I introduced in October 1997, as a provision in H.R. 3494, the Child Protection and Sexual Predator Punishment Act.

Twenty-five years ago, 7-year-old Joan D'Alessandro left her home in Hillsdale, New Jersey to deliver Girl Scout cookies to a neighbor and disappeared. Three days later, that neighbor, confessed to taking Joan's life and changing forever the lives of those who loved her. Joseph McGowan, a school teacher, had raped Joan, killed her, and dumped her broken, battered body in a ravine.

Although McGowan was convicted and sentenced to 20 years in state prison, the nightmare for the D'Alessandro family was far from over. For the past 12 years, they have had to live with the very real prospect that their daughter's killer will walk out of jail one day a free man. Already, McGowan has twice been eligible for parole and a New Jersey appeals court recently ordered another parole hearing. No family should have to suffer the tragedy of the loss of their child and then be forced to relive it again and again through parole hearings and appeals.

In response to their tragic loss, the D'Alessandro family has worked tirelessly at the state level for the enactment of Joan's Law, legislation providing that a child molester who murders a child under 13 in New Jersey will receive life in prison without the possibility of parole. Joan's Law is now on the books in New Jersey and I am proud that we, in this Congress, are seizing the opportunity to enact companion federal legislation.

My original legislation states that any person who is convicted of a serious violent felony should be sentenced to either death or imprisonment for life when the victim of the crime is under 14 years of age and dies as a result of the offense. As included in Senator HATCH's substitute to the House-passed bill, the bill also contains a narrow provision which allows the court

to impose a lesser sentence in a case where the defendant has provided substantial assistance in the prosecution of another person. While I would have preferred Joan's Law to move forward as originally introduced, I understand and respect the addition of such a provision. It is a change that was made in consultation with and with the approval of both the D'Allesandro family and the bill's House sponsor, Representative BOB FRANKS.

In am heartened by the swift passage of the Child Protection and Sexual Predator Protection Act both in the Judiciary Committee and on the floor. By including Joan's Law among the bill's provisions we have sent a strong message that our society will neither tolerate nor forgive the brutal acts of a criminal who takes a young life and ensures that this murdere will never bring such harm and grief to another family.•

THE CHARTER SCHOOLS EXPANSION ACT

• Mr. COATS. Mr. President, I am happy to speak today in recognition of the passage by unanimous consent of the Charter Schools Expansion Act, the bi-partisan bill. Senator LIEBERMAN and I introduced this bill last November to help further expand the charter school movement which is so successfully providing new educational opportunities for children all around the country. This bill passed unanimously out of the Labor Committee and was unanimously approved by the Senate.

This important bill builds upon the great success of the original charter school legislation which Senator LIEBERMAN and former Senator Durenberger introduced in 1994. It was Senator Durenberger's timeless promotion of charter schools that educated all of us to the promise and the benefit of this important public educational reform initiative.

The Federal Charter School Grant Program provides seed money to charter school operators to help them pay for the planning, design and initial implementation of a charter school. Since the program's inception, the number of charter schools has tripled, with over 1100 charter schools now operating in 33 States and the District of Columbia.

Charter schools are independent public schools that have been freed from onerous bureaucratic and regulatory burdens in order to pursue clear objectives and goals aimed at increasing student achievement. To increase student achievement, charter schools are able to design and deliver educational programs tailored to meet the needs of their students and their communities.

It is the individualized education available to students through charter schools that makes this a desirable educational alternative for many families. Charter schools give families an opportunity to choose the educational setting that best meet their child's needs. For many low-income families in particular, charter schools provide their first opportunity to select an educational setting which is best suited for their child.

Parents and educators have, in turn, given these programs overwhelmingly high marks. Broad-based studies conducted by the Department of Education and the Hudson Institute show that charters are effectively serving diverse populations, particularly disadvantaged and at-risk children, that traditional public schools have struggled to educate.

With results like these, it is no wonder that some of the strongest support for charter legislation comes from low-income families. Not only do these parents now have real educational choices, but they are actually needed in the charter school environment for everything from volunteering to coaching, fundraising, and even teaching. This direct involvement of families is helping to build small communities centered around the school.

Charter schools can be started by anyone interested in providing a quality education: parents, teachers, school administrators, community groups, businesses and colleges can all apply for a charter. And, importantly, if these schools fail to deliver a high-quality education, they will be closed—either through a district or State's accountability measures or from lack of students. Accountability is literally built into the charter school process—the school must comply with the provision in its charter, and unhappy parents and students can leave if they are not satisfied.

Additionally, a survey conducted last fall by the National School Boards Association (NSBA) found that the charter movement is already having a positive ripple effect that is being felt in many local public school districts. The NSBA report cites evidence that traditional public schools are working harder to please local families so they won't abandon them to competing charter schools, and that central administrators often see charters as "a powerful tool" to develop new ideas and programs without fearing regulatory roadblocks.

Several other studies have recently been released highlighting the success of charter schools around the country. Among other things, these studies have shown that charter schools have successfully met and surpassed the standards outlined in their charters, attracted significant proportions of minority and low-income students, and have higher parental approval rates than public schools.

The results of these studies point to important ways to improve and reinvent public education as a whole. The implications from the success of charter schools indicate that public schools should be consumer-oriented, diverse, results-oriented, and professional places that also function as mediating institutions in their communities.

The purpose of this bill is to further encourage the growth of high-quality charter schools around the country. This bill provides incentives to encourage States to increase the number of high quality charter schools in their State. To qualify for funding under this bill, States must satisfy two criteria. First, they must provide for review and evaluation of their charter schools by the public chartering agency at least once every five years to ensure that the charter school is meeting the terms of its charter and meeting its academic performance requirements. And second, States meet at least one of three priority criteria:

The State has demonstrated progress in increasing the number of high quality charter schools that meet clear and measurable objectives for the educational progress of their students;

* * * * *

To help ensure that the amount of the federal grants are proportional to the level of charter school activity in the State, this bill directs the Secretary to take into consideration the number of charter schools in operation, or that have been approved to open.

During drafting of this bill, the single greatest concern I heard from charter school operators related to their ability to access their fair share of federal education funding. And so, to ensure that charter schools have enough funding to continue once their doors are opened, this bill provides that charter schools get their fair share of federal programs for which they are eligible, such as Title 1 and IDEA. The bill also directs States to inform their charter schools of any Federal funds to which they are entitled.

This bill also increases the financing options available to charter schools and allows them to utilize funds from the Title VI block grant program for start-up costs.

Because it is so important that charter schools are held accountable in return for the flexibility they are given from Federal, state and local laws and regulations, this amendment includes several significant provisions which strengthen accountability. First, under the priority criteria, States must review and evaluate their charter schools at least once every five years to ensure that they are meeting the terms of their charter and their academic performance requirements. They are rewarded for increasing the number of high quality charter schools that are "held accountable in their charter for meeting clear and measurable objectives for the educational progress of their students."

The definitions section of the bill also stresses accountability by requiring a written performance contract

with the authorized chartering agency in the State. These written performance contracts include clearly defined objectives for the charter school to meet in return for the autonomy they are given. The performance objectives in the contract are to be measured by State assessments and other assessments the charter wishes to use.

I am confident that this amendment will build on and contribute to the success of the charter school movement. This bill stresses the need for high quality, accountable schools which are given the autonomy they need to provide the best educational opportunity for their students.

With the passage of this bill, a strong signal will be sent to parents and teachers all across this country that they are not alone in their struggle to improve education. We hope to ease their struggle by enabling new charter schools to be developed. More charter schools will result in greater accountability, broader flexibility for classroom innovation, and ultimately more choice in public education. I urge my colleagues to increase educational opportunities for all children by supporting this bill.

Mr. President, I would like to take a moment and thank Senator LIEBERMAN for his tremendous leadership in the area of educational reform. He and I have worked closely on a number of issues over the last several years, and I want to commend him, in particular, for his strong support and leadership on issues concerning increasing educational opportunities for low-income children. He understands so clearly the fundamental importance of providing a high quality education in a safe environmental of our neediest children. In addition to this charter schools bill, which will help to increase educational opportunities for low-income children, Senator LIEBERMAN and I have worked closely for the last 4 years to gain support for publicly-funded scholarships for low-income children. I want to thank him for his unwavering commitment to this issue and his vitally important leadership. His efforts have done much to win bipartisan support for both charter schools and low-income scholarships and I thank him for his strong commitment to our country's neediest children. With the passage of this charter schools bill, Senator LIEBERMAN and I have the pleasure of seeing the first of our joint educational reform initiatives move closer to becoming law.•

1998 WATER RESOURCES DEVELOPMENT ACT

• Mr. GRAHAM. Mr. President, I would like to take this opportunity to make some remarks regarding S. 2131, the Water Resources Development Act which passed the Senate by unanimous consent on October 8, 1998.

I would like to first thank my colleague Senator MACK from Florida for his partnership on our efforts to produce a WRDA bill that reflects the needs of our State. I would also like to thank Senator CHAFEE, Sentor BAUCUS, and Senator WARNER for their leadership on this critical piece of legislation. The 1998 WRDA bill includes many key items for the State of Florida, a few of which I would like to highlight today.

As you know, water issues in Florida include everything from coastal protection to inland water quality management and from statewide drought to statewide flooding. Our history dealing with water resources has caused some of our own problems that we seek to correct today.

In the area of the Everglades and South Florida Ecosystem Restoration: The Everglades restoration project is the largest restoration program in the world. This vast region, which is home to more than six million Americans, seven of the ten fastest growing cities in the country, a huge tourism industry, and a large agricultural economy, also encompasses one of the world's unique environmental resources. Over the past 100 years, manmade changes to the region's water flow have provided important economic benefits to the region, but have also had devastating effects on the environment. Biological indicators in the form of native flora and fauna have shown severe damage throughout south Florida.

The work of the Army Corps of Engineers is essential to this restoration effort. The critical projects authorized in WRDA 1996 have demonstrated substantial success. The South Florida Ecosystem Restoration Task Force, the Governor's Commission for a Sustainable South Florida, local sponsors, and the Army Corps have completed a review of over 100 potential projects, narrowed the list to 35 and ranked them in order of priority for accelerating the restoration of the South Florida ecosystem.

In addition to this extension, the WRDA 1998 bill includes a $27 million authorization for the Hillsboro and Okeechobee Aquifer Storage and Recovery Project. This technology is presently used to create subsurface reservoirs for drinking water. The Army Corps is considering the use of Aquifer Storage and Recovery as a water storage technology for use in implementation of the Restudy. Our action to authorize work on this project will allow early evaluation of the viability of this technology.

Finally, the WRDA 1998 bill includes clarifying language that expenditures by the state of Florida for land acquisitions in the Caloosahatchee River basin are eligible for Federal reimbursement if they are identified as part of the restudy when it is released in July 1999. Our action assures the State of Florida that acquired lands that become part of the restudy will be eligible for Federal reimbursement.

In the area of water supply: One of the unique aspects of the Florida water system is that we frequently experience periods of drought and periods of flooding. This is the nature of a system that has been modified by human manipulation of natural flowways. In the State of Florida, our growing population coupled with the need to protect our natural systems has created a water quality challenge. From 1995 to 1996, Florida added 260,000 new residents, or the equivalent of four new Daytona Beaches. Between 1980 to 1995, Florida's public water supply needs increased 43 percent more than double the national average of 16 percent. This shows no signs of slowing down. Today, Florida continues to grow at the rate of more than 800 people per day.

Many other States on the eastern seaboard face similar challenges. For example, a recent article in New Jersey Monthly stated that New Jersey leads the nation in the percentage of land mass that is classified as having a high vulnerability for serious water quality problems. According to the U.S. EPA, more than 66 percent of the State falls into the most precarious category for water quality.

In addition, as early as 1983, a U.S. Army Corps of Engineers study stated that deficits in water supply for the area in Virginia south of the James River are projected to be as much as 60 million gallons per day by the year 2030. Ground water withdrawals have caused water level declines of as much as 200 feet in some areas. In the State of New York, water levels in aquifers are predicted to decline by as much as 18 feet and low flows in streams may be decreased by 90 percent in parts of Long Island.

In each of these cases, water supply is tied to water quality. Problems such as groundwater overpumping, damage of existing wetlands, and saltwater intrusion of aquifers can cause irreparable damage to our water systems and surrounding ecosystems. For example, since 1906 wetland acreage in the State of Florida has shrunk by 46 percent resulting in a loss of both critical habitats and a key link in the replenishment of our aquifers. The development of alternative water sources that will help to resolve these types of issues and will allow States to provide for future water supply needs without sacrificing environmental protection is my goals.

The WRDA 1998 bill includes a requirement for EPA to study water availability and make recommendations on the adequacy of our existing water supply. The study will form the basis of future water supply programs. The State of Florida is already taking the water supply issue seriously, and in 1998 alone has budgeted $75 million in

regional and State funds for development of alternative water supplies. I am looking forward to working with my colleagues on the Environment and Public Works Committee during the next Congress to address the water quality and water supply needs of the State of Florida.

Together, these initiatives will protect the future of the State of Florida by protecting our water resources that are so critical to our environment and our economy.●

COPYRIGHT LEGISLATION

● Mr. THOMPSON. Mr. President, in the closing days of the 105th Congress, the Senate passed two pieces of copyright legislation that will have enormous impact. As Charles Dickens might say, it is the best of times and the worst of times for those who create the property that is protected by copyright.

First, the Senate passed S. 505, which extended the terms of copyrights by 20 years, to life plus 70 years from life plus fifty years. For a number of years, our trading partners and competitors have protected their copyrights for the life of the author plus 70 years. Under the rule of the shorter term, these nations protected American copyrights for only the life of the author plus 50 years. The United States is the world leader in copyright, and should afford the greatest protection for copyrighted works of any nation, both to encourage creativity that benefits all, and for our own national interest with respect to the balance of trade.

The extension of copyright terms will be of enormous benefit to songwriters and others who create copyrighted works. It will benefit the public through enhanced creative activity, and the further public performance of already existing works to be enjoyed by future generations.

But S. 505 contained a bitter pill to swallow, the so-called Fairness in Music Licensing Legislation. These provisions are terribly unfair to those who create music. When a person profits from a public performance of music, he or she should fairly compensate the creator of that music through royalty payments. This is an elemental necessity for the creation of music. To paraphrase Justice Holmes, if music did not pay, no one would write it. The average songwriter receives less than $5,000 per year in royalties, and the average restaurateur pays only a few hundred dollars a year to play music in his establishment, about 1% of revenues. At the same time, the restaurateur uses music to create an ambience that will cause people to come to his establishment, and to spend more time and money there than they would without the music.

But the restaurateurs, retailers, and others wanted something for nothing. The songwriters were even willing to help out the mom and pop restaurants by exempting broadcast performances of their music in about two-thirds of the Nation's restaurants. But that was not good enough for the music users, who had the House pass outrageous legislation that amounted almost to stealing from the songwriters. A House that purports to defend property rights passed the most anti-property rights legislation in many years.

We worked in the Senate to improve that House-passed bill. We preserved vicarious liability, a necessity to ensure that royalties are paid. We prevented retailers and restaurants from challenging their rates in any city they chose, which would have been an unacceptable burden on the ability of songwriters to protect their rights. We eliminated provisions that would have enabled department stores to use music for free. In addition, we increased enforcement of payments because a judge can award double the licensing fees for up to three years instead of current law's limits of statutory damages.

But I still have major concerns about S. 505, even with these changes. Songwriters' property taken from them and used by others without payment. The exemptions are too generous, as they go well beyond the interest of small establishments. In fact, the vast majority of songwriters are smaller business people than many of the establishments that will be exempted from paying royalties by this bill.

At the same time, this bill runs counter to our international treaty obligations under the Berne Convention and the TRIPS Agreement. Those treaties benefit Americans more than any other country. We have the greatest interest in ensuring compliance by all signatory countries with these treaties. Yet we have passed a bill that is inconsistent with these treaty obligations. What will happen when foreign countries do not live up to their promises to protect intellectual property, citing our own example of this legislation back to us? Songwriters may not be the only losers; copyright protects computer software and other non-performing arts creative material. Some of the companies who may be hurt by international retaliation may be member companies of organizations that insisted on the music licensing provisions.

Only time will tell if the World Trade Organization will find that this bill violates international treaties that are binding on this country. But there is a good chance that these unfair music licensing provisions will not be able to stand.

It became clear in the final days of this Congressional session that in order to obtain copyright term extension and the WIPO implementing legislation, unfair music licensing legislation would have to be included. Although the music licensing provisions are considerably better than those contained in the House-passed bill, they are still unfair. However, the 20-year extension in copyright terms is a significant benefit to songwriters, and the WIPO Treaty implementing legislation will assist creative artists in the digital age, as well as enhance worldwide protection of copyrighted materials. In implementing this treaty, it is unfortunate that my colleagues have passed legislation that violates our existing treaty obligations.

Mr. President, there are times when the bad has to be taken with the good. The music licensing provisions are indefensible, but a necessary cost of obtaining very important legislation for the benefit of creative artists. It should not have been this way. I am confident that the music licensing issue is not yet over, and I regret the likely embarrassment that will ultimately fall upon this body when the language it has passed is ruled to violate our treaty obligations.●

ORDER FOR RECESS

Mr. JEFFORDS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess, under the previous order, following the remarks of the Democratic leader, Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAREWELL TO OUR DEPARTING COLLEAGUES

Mr. DASCHLE. Mr. President, on Saturday, I had a chance to talk about our good friend, DALE BUMPERS. I'd like to take a few minutes to talk about four other friends who will be leaving us at the end of this Congress.

Shortly after he left the White House, Calvin Coolidge was called on to fill out a standard form. After filling in his name and address, he came to a line marked "occupation." He wrote "retired." When he came to the next line, labeled "remarks," he wrote "Glad of it." I suspect that our colleagues who are retiring at the end of this Congress are also "glad of it"—at least in some small measure. But, in addition to relief, I hope they also feel a sense of pride—both for what they have accomplished here, and the dignity with which they have served.

In a short time here, DIRK KEMPTHORNE has made all of our lives a little better. Thanks in large part to him,

the Safe Drinking Water Act is now the law. Senator KEMPTHORNE has also reminded us of the importance of state and local involvement in our decisions. We will all miss him.

I had the good fortune to travel with Senator KEMPTHORNE to the Far East. As most of our colleagues know, as we travel we get to know one another even better. I know him and I admire him and I wish him well in his life after the Senate. I also applaud him for the nature with which he has continued to work with all of us. He has a very conciliatory, very thoughtful, a very civil way with which to deal with colleagues on issues. If we would all follow DIRK KEMPTHORNE's example, in my view, we would be a lot better off in this body. His manner, his leadership, his character, his personality is one that we are going to miss greatly here in the U.S. Senate.

We will also miss DAN COATS. With his thoughtful approach and uncompromising principles, Senator COATS has followed his heart above all else. And, as a result of his support of the Family and Medical Leave Act, millions of Americans are able to follow their hearts, too, and spend more time with their families when they need them most.

When Senator COATS announced his retirement in 1996, he said, "I want to leave (politics) when I am young enough to contribute somewhere else * * * I want to leave when there is still a chance to follow God's leading to something new." Wherever Senator COATS and Senator KEMPTHORNE are led, we wish them both the best. I am confident that they will continue to contribute much to their country and to their fellow citizens.

And we will surely miss our own 3 departing Senators.

DALE BUMPERS, WENDELL FORD and JOHN GLENN are 3 of the sturdiest pillars in this institution. They have much in common. They came here—all 3 of them—in 1974. For nearly a quarter-century, they have worked to restore Americans' faith in their government.

Their names have been called with the roll of every important question of our time. And they have answered that call with integrity and dignity.

They are sons of small town America who still believe in the values they learned back in Charlestown, Arkansas; Owensboro, Kentucky; and New Concord, Ohio. They are also modest men.

Perhaps because they had already accomplished so much before they came to the Senate, they have never worried about grabbing headlines here. Instead, they have been content to work quietly, but diligently—often with colleagues from across the aisle—to solve problems as comprehensively as they can. They have been willing to take on the "nuts and bolts" work of the Senate—what JOHN GLENN once called "the grunt work" of making the government run more efficiently.

They were all elected to the Senate by wide margins, and re-elected by even wider margins. And they all would have been re-elected this year, I have no doubt, had they chosen to run again.

What I will remember most about each of them, though, is not how much they are like each other they are, but how unlike anyone else they are. Each of them is an American original.

As I said, I've already shared my thoughts about DALE BUMPERS. No Senator has ever had more courage than DALE BUMPERS.

And no Senate Leader has ever had the benefit of a better teacher than WENDELL FORD.

No Leader has ever enjoyed such a loyal partnership as I have. No Leader has ever had a better friend and counselor.

For the past 4 years, Senator FORD has been my right hand and much more. He is as skilled a political mind, and as warm a human being, as this Senate has ever known.

Carved inside the drawer of the desk in which WENDELL sits is the name of another Kentucky Senator, "the Great Compromisor," Henry Clay. It is a fitting match.

Like Henry Clay, WENDELL FORD believes that compromise is honorable and necessary in a democracy. But he also understands that compromise is, as Clay said, "negotiated hurt."

I suspect that is why he has always preferred to try to work out disagreements behind the scenes. It allows both sides to bend, and still keep their dignity.

In 1991, WENDELL's quiet, bipartisan style convinced a Senator from across the aisle, Mark Hatfield, to join him in sponsoring the "Motor Voter" bill. Working together, they convinced the Senate to pass that legislation. To this day, it remains the most ambitious effort Congress has made since the Voting Rights Act to open up the voting booth to more Americans.

WENDELL FORD has served the Bluegrass State as a state senator, lieutenant governor, governor and United States Senator. His love for his fellow Kentuckians is obvious, and it is reciprocated.

In his 1980 Senate race, WENDELL FORD became the first opposed candidate in Kentucky history to carry all 120 counties. In 1992, he received the highest number of votes ever cast for any candidate in his state.

Throughout his years in the Senate, Senator FORD has also been a tenacious fighter for the people of Kentucky. He has also been a leader on aviation issues, a determined foe of government waste and duplication, a champion of campaign finance reform, and—something we are especially grateful for on this side of the aisle—a tireless leader for the Democratic Party.

He chaired the Democratic Senate Campaign Committee for three Congresses, from 1976 through 1982. And, in 1990, Democratic Senators elected him unanimously to be our party whip, our second-in-command, in the Senate—a position he still holds today.

We will miss his raspy and unmistakable voice, his good humor and wise counsel.

Finally, there is JOHN GLENN. What can one say about JOHN GLENN that has not already been said?

In all these 24 years, as hard as he tried to blend in with the rest of us, as hard as he tried to be just a colleague among colleagues, it never quite worked, did it?

I used to think that maybe I was the only one here who still felt awed in his presence. Two years ago, on a flight from China with JOHN and a handful of other Senators and our spouses, I learned that wasn't so.

During the flight, we were able to persuade JOHN to recollect that incredible mission aboard *Friendship 7*, when he became the first American to orbit the Earth. He told us about losing all radio communication during re-entry, about having to guide his spacecraft manually during the most critical point in re-entry, about seeing pieces of his fiberglass heat panel bursting into flames and flying off his space capsule, knowing that at any moment, he could be incinerated.

We all huddled around him with our eyes wide open. No one moved. No one said a word.

Listening to him, I felt the same awe I had felt when I was 14 years old, sitting in a classroom in Aberdeen, South Dakota, watching TV accounts of that flight. Then I looked around me, and realized everyone else there was feeling the same thing.

I saw that same sense of awe in other Senators' faces in June, when we had a dinner for JOHN at the National Air and Space Museum. Before dinner, we were invited to have our photographs taken with John in front of the *Friendship 7* capsule. I don't think I've ever seen so many Senators waiting so patiently for anything as we did for that one picture.

A lot of people tend to think of two JOHN GLENNS: Colonel JOHN GLENN, the astronaut-hero; and Senator JOHN GLENN. The truth is, there is only John GLENN—the patriot.

Love for his country is what sent JOHN into space. It's what brought him to Washington, and compelled him to work so diligently all these years in the Senate.

People who have been there say you see the world differently from space. You see the "big picture." You see how small and interconnected our planet is.

Perhaps it's because he came to the Senate with that perspective that JOHN has fought so hard against nuclear proliferation and other weapons of mass destruction.

Maybe because he'd had enough glamour and tickertape parades by the time he came here, JOHN chose to immerse himself in some decidedly unglamorous causes.

He immersed himself in the scientific and the technical. He looked at government with the eyes of an engineer, and tried to imagine ways it could work better and more efficiently.

As early as 1978, he called for Congress to live by the same workplace rules it sets for everyone else. More recently, he spearheaded the overhaul of the federal government procurement system, enabling the government to buy products faster, and save money at the same time.

In 1974, the year he was elected to the Senate, JOHN GLENN carried all 88 counties in Ohio. In 1980, he was reelected with the largest margin in his state's history. The last time he ran, in 1992, he became the first Ohio Senator ever to win 4 terms.

As I said, I'm sure he would have been re-elected had he chosen to run again. But, as we all know, he has other plans.

For 36 years, JOHN GLENN has wanted to go back into space. On October 29, he will finally get his chance. At 77 years old, he will become the oldest human being ever to orbit the earth—by 16 years.

Many of us will be in Houston to see JOHN and his *Discovery* crew mates blast off. If history is any indication, I suspect we will be wide-eyed once again.

In closing, let me say, Godspeed, JOHN GLENN and DALE BUMPERS, WENDELL FORD, DIRK KEMPTHORNE and DAN COATS. You have served this Senate well. You are all "Senators' Senators," and we will miss you dearly.

KOSOVO

Mr. DASCHLE. Mr. President, the closing hours of the 105th Congress are fast approaching. I could not let this Congress end without coming to the Senate floor to address the tragedy in Kosovo. It is a human crisis of immense proportion, and it poses an increasing threat to the United States and the global community.

The last several years have been marked by Yugoslavian President Milosevic's steady escalation of political repression and violence against the people of Kosovo. Acting at Milosevic's behest, Yugoslav forces have driven nearly 400,000 Kosovar Albanians from their homes. Fourteen thousand homes and 400 villages have been razed. Over 700 Kosovar Albanian men, women, and children have been killed.

Within the last several weeks our newspapers have been filled with accounts of atrocities committed by Milosevic's units against scores of unarmed civilians. Among the list of crimes documented by international observers are politically motivated killings; massacres of women, children and elderly persons; torture; arbitrary arrest; detention without cause; denial of fair, public trial; and destruction of private homes.

Further exacerbating this man-made crisis is the fact that winter is fast approaching, placing at peril the health and well being of tens of thousands of displaced persons who have managed to survive Milosevic's cruelties.

After watching this recent string of atrocities, the international community was compelled to respond. On September 23, the United Nations Security Council adopted a resolution condemning the excessive use of force by Milosevic's thugs and demanding that he cease military actions against civilians, withdraw his security units, facilitate the safe return of refugees and displaced persons to their homes, permit unimpeded access of humanitarian organizations to the people of Kosovo, and engage in meaningful negotiations on Kosovo's final status.

Diplomacy has been and should continue to be a major component of our response to this situation. But we must also acknowledge reality. The reality is that meaningful negotiations toward a settlement of Kosovo's status cannot take place in the current environment. Furthermore, words alone have never been enough to slow Milosevic and his henchmen. This was demonstrated to the world all too painfully in Bosnia. Despite numerous appeals from the international community to end his support for the war in Bosnia, Milosevic repeatedly turned a deaf ear, and the hostilities continued unabated.

It was only after NATO carried out a series of airstrikes against military forces supported by Milosevic that a cease-fire became possible.

The circumstances appear to be similar in Kosovo. And, if Milosevic fails to fully and immediately comply with the terms of the U.N. resolution, I believe the time has come for NATO to respond similarly.

The United States and our NATO allies must be prepared to carry out airstrikes against the Federal Republic of Yugoslavia if such action is determined to be the only means of enforcing the U.N. resolution.

I say this for three reasons. First and foremost, continued repression, violence, and instability in Kosovo directly threaten the national security interests of the United States. Kosovo is a tinderbox in the heart of one of the most unstable and critical regions of the world. Balkan history has clearly demonstrated that a spark in this region can rapidly spread into a blaze that engulfs the world. We have already seen refugee outflows into Albania and Macedonia. Two NATO allies, Greece and Turkey, with their competing regional interests, could easily and quickly get enmeshed in this crisis if it continues and widens.

Second, the credibility of NATO, still our most important alliance, hangs in the balance. For nearly 50 years, NATO has been the organization most responsible for keeping the peace in Europe. NATO had great success in the years after World War II and the Cold War. Its post-Cold War utility was proven earlier this decade in Bosnia. What NATO does in Kosovo will go a long way toward determining this crucial alliance's role in the 21st century. A strong, unified NATO is still the best insurance policy we have against large-scale conflict in Europe.

Third, as the west's history with Milosevic in Bosnia proves, if words are to have the desired effect on his behavior, they must be backed up with a credible threat to use force. Indeed, our recent experience in Kosovo itself bears this out. In the past week or two, Milosevic has launched an effort to convince the world that he is fully complying with the requirements of the September 23 U.N. resolution. Not surprisingly, this behavior occurred precisely as the specter of NATO military action began to loom over him. In fact, there may only be one way to achieve peace in Kosovo without the use of force. NATO must demonstrate to Milosevic that it is prepared to use force to compel his compliance. This is precisely the policy toward which this Administration and our NATO allies appear to be moving.

Mr. President, in offering my endorsement for this approach, let me be clear. If air operations and missile strikes against the Federal Republic of Yugoslavia are necessary to force Milosevic to the negotiating table, the United States and our NATO allies should demonstrate that we are prepared to pursue that option. Certainly we should not give the Administration a blank check, but we must accept our responsibility as a world leader and acknowledge that stronger measures may be required. The Administration should continue to consult closely with Congress every step of the way as events unfold.

Milosevic's atrocities have gone on too long. It's time for the United States to defend its national interests and help restore peace to this troubled region. It's time for the world to say no to the torture and slaughter of innocent civilians in Kosovo.

RECESS UNTIL 11 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 11 a.m., October 13, 1998.

Thereupon, the Senate, at 6:15 p.m., recessed until Tuesday, October 13, 1998, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 12, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. PEASE).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
October 12, 1998.

I hereby designate the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING) for 5 minutes.

ACCOMPLISHMENTS OF CONGRESS REGARDING EDUCATION MATTERS

Mr. GOODLING. Mr. Speaker, why all the political rhetoric on education this past week? And to make sure everybody understands, the people back home understand, that is exactly what it is, political rhetoric. But why all this political rhetoric in the last week about education?

Well, I think there are probably four reasons. First of all, it is a diversionary tactic. I think no one would deny that. I suppose I can understand it, except it bothers me that children are used in this diversionary tactic.

Secondly, I imagine it has something to do with polls. All the polls say education is a sexy topic. But you want to be careful. Yes, every parent, every grandparent, wants their child to have a quality education. But when you look at those polls and they ask the question, who do you trust least to reform public education at the elementary-secondary level, the answer is almost unanimously the Federal Government. Who do you distrust second, the state government. And who do you most trust, it is local government, parents, school boards, administrators, teachers on the local level.

I guess the third reason would be this administration seems to like to micromanage elementary-secondary education from Washington, D.C., the old top-down method, which, of course, has proved totally unsuccessful.

I guess the last reason is pride of authorship. Every President I have served with seems to want to be remembered as the education President.

So in order to do that, you cannot fund existing programs that might be working well. You have to create new old programs. In other words, you take the old programs, give them a new name, and then say "This is my program." As I said at the White House just last week, who gets credit is not important; the important thing is are we doing something to help all children receive a better education.

Why do I say pride of authorship is so important? Well, obviously if the President wanted to have 100,000 new teachers for elementary grades, even though every study indicates we have 150,000 out there now who are not teaching, they are not teaching because they cannot get an elementary teaching job. In my district, depending on the school district, the waiting list is 50 to 200 applicants for every elementary teaching job. But if he wants 100,000 new teachers, then all he had to do was help me get more money for special education.

Something I have said for 20 years in the minority when there was an overwhelming Democrat majority is fund the special education mandate that you sent out there. You sent a 100 percent mandate on special education to local school districts. You promised you would send them 40 percent of the excess costs. And when I became chairman, you were sending 6 percent.

Forty percent of the excess cost. In other words, 40 percent of what it costs to educate a special ed student beyond what it costs to educate a regular student. Sometimes that is twice as expensive, sometimes ten times as expensive.

Well, let me show you what it would mean to school districts if as a matter of fact they got their 40 percent. Members representing large cities should have been on this year after year after year. The only person I could interest on the other side of the aisle over the years was the gentleman from Michigan (Mr. KILDEE), until about the last year or two, and I have gotten some help from the gentleman from Wisconsin (Mr. OBEY).

Well, in the L.A. Unified School District, the Los Angeles Unified School district, they spend $600 million each year, each year, to fund the Federal 100 percent mandate on special education. $325 million of that has to come from the local tax base. We send them $19 million. If we sent them 40 percent, they would have an additional $60 million every year to reduce class size, to repair buildings, to do all of those things. More of this later on.

COMMENTS ON OUTPUT OF CONGRESS

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

Mr. DEFAZIO. Mr. Speaker, well, here it is. It is the 109th workday of this Congress in Washington D.C. Thank God we were in session all weekend, although most Members of Congress have not been here. The leadership has not been evident. But that brings the Congress up to a grand total of 109 days.

Now, the average American holding only one job, and I have a lot of American families in my district holding two or three jobs trying to make ends meet, but those who are just holding down one job have worked 200 days so far this year.

No wonder the Congress' work remains undone. Congress, under the Republican leadership, has worked in Washington, D.C. 109 days. Many of those partial days, like the day that we adjourned at 4 o'clock in the afternoon on a Wednesday because the Republicans had a huge fund-raiser in New York and they had the corporate jets waiting for them out at National Airport, and they all had to jet up to New York and hold this gala event to rake in a few tens of millions of dollars from their corporate sponsors, the same corporate sponsors who wanted them to kill any attempts to curtail teenage smoking and go after the tobacco industry, and the Republican leaders delivered. There is no legislation coming out of this Congress to curtail that, and the rate of teenage smoking is skyrocketing with all the tragic consequences down the road.

Then the insurance industry. They provided quite a few jets that afternoon because they had a real big one they wanted to kill. Tens of millions of Americans are in what are called HMOs, health maintenance organizations. What we found out about these

HMOs is that they save money by denying Americans and their families and loved ones needed care. The insurance bureaucrats will deny your doctor, will deny you a referral to a specialist, so that they can fatten their bottom line.

Tens of millions of Americans were demanding patients' rights. Even the AMA weighed in. They wanted providers' rights. The doctors are fed up with this too. They want to be able to refer their patients for needed tests. But, guess what? The insurance industry is capable of delivering tens of millions of dollars to the Republican leadership, and, behind closed doors, they decided to kill that legislation. There will be no HMO insurance industry Patients and Providers Bill of Rights in this Congress because of special interest money.

Now, the chairman of the Committee on Rules rose the other day and said it does not matter that we didn't do HMO reform or anything about teenage smoking. It does not matter that we have not passed the education package to decrease class size, to increase the number of teachers and rebuild our crumbling schools, because we did one big thing in this Congress, we passed a tax cut.

Well, let us look at the statistics for the tax cut that was passed by the Republican majority. The families earning less than $59,000, I hope they would all look at their tax return for this year, the 1997 tax year, and compare it to the 1996 tax year and see how much the savings were. Those who got it, about one family in five earning less than $59,000, they got $6. $6. Very generous of the Republican leadership.

Now, families between $59,000 and $112,000, they did a little better. They got $81. That is, those of them who got it. That is 20 percent of the families in that tax bracket.

But, ah ha, thank God some people really got relief under this bill. Two-thirds of the small number of families in this country earning over $112,000 a year, those whose incomes average $660,000 a year, well, they got a tax cut of $7,135. Very nice. Very nice. It could help pay one year's cost for a kid to go to a state institution of higher learning.

Of course, their kids are not going to the state institutions of higher learning. But it could pay for that from one of those other families. The families earning less than $59,000 will get $6 to put toward that education, and those between $59,000 and $112,000 will get $81.

So that is the grand accomplishment of this Congress. That is reason enough not to have done anything for education, for class size, for more teachers for the crumbling schools. That is reason enough for the Republican leadership to have denied tens of millions of Americans patients rights when they need a referral to a specialist, when they need a test, when they need treatment. They are denied, with no appeal, and the Republicans have denied them legislation to fix that. It was within the power of this Congress, but the big money spoke louder than the millions of Americans who needed help.

Then the teenagers getting hooked on tobacco, well, too bad for them too, according to the Republican leadership. There was not time to take care of that problem.

A SOLUTION TO THE BUDGET GRIDLOCK

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

Mrs. LINDA SMITH of Washington. Mr. Speaker, I rise today to offer a solution to the gridlock between this body and the President, one that our President says he is willing to shut down the government over. I ask the President to stay in town at least one day, to cancel his trip to New York to the fund-raiser for an important friend of his, and consider this: There is a simple solution available that will satisfy both the President and Congress and avert the potential crisis that this Nation faces if he does not start paying attention. In fact, the problem could be resolved today.

First of all, both the President and Congress have promised to save Social Security. Now, in order to really put action behind that promise, neither side can spend the phantom surplus Social Security dollars, not through new spending, not through tax cuts.

Second, our focus is on education, a value that we all wholeheartedly say must be a priority. Now, let us keep these two goals in mind and consider the President's words.

One week ago, two weeks ago, about once a week for some time, the President has proclaimed that his top goal is to save Social Security. Now his goal has changed this week, but that is what he has been saying.

This week he says he is going to shut down the government, not for the goal of saving Social Security, but he is going to shut down the government if we do not agree to dig deeply into the Social Security trust fund and spend billions of dollars, new dollars, on education programs.

Now what we have is the President pitting the needs of elderly Americans against the needs of children and asking us, the American people, to choose. He says we have to choose between protecting Social Security for our elderly or shoring up education for the future of our children.

I stand here today to say this is a false choice that Congress and Americans do not have to make. There is another way.

□ 1245

The solution is simple. Common sense, something that came directly from the people, not this body, and it is to return money directly to local school districts and bypass the bureaucratic cost and the red tape of Washington, D.C., the most asked-for educational change from all the teachers throughout America.

The House of Representatives has passed a model piece of legislation, the Dollars to the Classroom Act, that provides enough money for schools and school districts to hire 110,000 teachers. It just simply does this by taking a portion of the education bureaucracy and block-granting 95 percent of these 31 Federal education programs directly to our local classrooms.

The beauty of this bill is that it allows local people the flexibility to hire more teachers and reduce class sizes; or, if their district needs it more and their class sizes are already low, buy new computers, books or supplies. Basically, they can use the money to buy whatever the children need most, not what is directed by bureaucrats 2,500 miles away.

The President threatens that if we were to do this, he would veto it, because he still believes, as many on the Hill here in Washington D.C. believe, that bureaucrats know better than parents. I think they are wrong.

This budget battle should remind Americans of how difficult it will be for politicians to leave Social Security trust funds alone, so that it is to protect our elderly neighbors that we should be standing here. It is what we should be about. But here we are, just a week away from a promise to save Social Security. Last week, the week after, the week before, and the President came back to town to posture long enough after he read the polls. He knows we care about children. He knows I think daily about my six grandchildren, but he has decided that for the sake of campaigns, that this is the right thing to do.

We need to bypass the bureaucracy. We need to get out of the political rhetoric, and we need to get into the hearts and the neighborhoods and the school districts. We need not to separate generations.

I stand here today to plead with America to call the President back to town to negotiate a fair budget.

RECESS

The SPEAKER pro tempore (Mr. PEASE). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 12 o'clock and 47 minutes p.m.), the House stood in recess until 2 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer: You have promised, O gracious God, to be with us wherever we are, in the towering heavens to the deepest oceans, from the moments of high exultation and in tragedy and great despair. We know that we cannot flee from Your presence and Your spirit will never leave us.

This day we pray that Your spirit would encourage us when we need encouragement, that Your spirit would reconcile when we need reconciliation, and when we face anxiety, we pray that peace and hope will be Your gift to all Your people. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS led the Pledge of Allegiance as follows:

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

ATTENDING FUND-RAISERS

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

Mr. HAYWORTH. Mr. Speaker, yesterday I came to the well of this House, and I asked the President of the United States, Mr. Speaker, to refrain from attending two major fund-raising events, to stay here in Washington and work with the Congress to make the decisions necessary to reach accord on our budget situation. The President, indeed, decided not to go to Palm Beach, Florida, but sadly, Mr. Speaker, the President plans to go on to New York City for not one, but three fund-raising events tonight.

Those three fund-raising events will give him a total of 100 fund-raising events, Mr. Speaker, and yet the President all year long has only held two Cabinet meetings, on both occasions to discuss his personal situation.

Mr. Speaker, I would call on the President again not to attend the fund-raising meetings in New York, especially, as I pointed out yesterday, because they are to benefit a sitting member of the House Committee on the Judiciary, a person with aspirations toward moving to the other side of Capitol Hill and the other body. Even though Washington is hard-bitten and cynical, Mr. Speaker, even our opposition can see the conflict of interest.

THE MYTH OF THE BIPARTISAN WATERGATE ERA

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

Mr. PITTS. Mr. Speaker, after voting in overwhelming numbers for the release of the Starr report, many Democrats are now blaming the Republicans for being too partisan in the handling of the President's scandal. These Democrats are implicitly claiming that they had some kind of bipartisan consensus during Watergate. How short their memories are.

In fact, of the 134 staff positions authorized for the impeachment inquiry of 1974, only 12 were for Republican staff, 12 out of 134. When Speaker Carl Albert decided to refer impeachment resolutions to the Rodino committee, no Republicans were included in the meeting. When the committee met to consider subpoena authority, the Republicans proposed that the chairman and ranking member have joint authority. This idea was defeated in a party line vote.

While the Democrats work on forgetting things, Republicans will work to fairly uncover the truth.

IMF FUNDING

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

Mr. TRAFICANT. Mr. Speaker, the White House said, give the International Monetary Fund $18 billion more, or we will shut the government down. Take it and like it, Congress. Shut up and pass it, Congress.

Enough is enough. When will the Congress grow a backbone? What is going on here, Mr. Speaker? I say if that is the deal, shut the government down. You know not one American will be hurt. We can retroactively take care of them. But I am not for one more penny for the international monetary slush fund.

We give them the money. They buy Chinese products with it. Foreign leaders steal it, and then they vote against us at the United Nations 90 percent of the time.

Beam me up. If we are going to flush another $18 billion down the toilet, then push the handle, Congress, and flush it in America.

I yield back the balance of anything worth flushing with the International Monetary Fund.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF RULES TODAY

Mr. GIBBONS. Mr. Speaker, pursuant to H. Res. 575, I announce the following suspensions to be considered today: H.R. 2349, Gus Hawkins Post Office; H Res. blank, concerning the steel import crisis, H.R. 4738, extending certain provisions and providing tax relief for farmers and small businesses.

GOVERNMENT SHUTDOWN

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

Mr. GIBBONS. Mr. Speaker, last Friday the President decided that wag the dog was not good enough. Congress passed a bipartisan agriculture appropriation bill that included billions of dollars in emergency assistance to hard-hit farmers, and the President vetoed it. He played wag the farmer, in a suspicious attempt to divert attention from the national debate over whether or not felonies by the chief magistrate of the United States would rise to the level of an impeachable offense.

Now the President is poised to go to yet another fund-raiser, this one in New York, while the important business of government is left unattended and a government shutdown is upon us.

Mr. President, we in Congress urge that you do not shut the government down. Do not wag the farmer and do not go to New York to raise money from the very people you bash whenever Republicans propose tax cuts. The President should clear his fund-raising calendar and stay in Washington and work with Congress to finish the job we were elected to do.

Mr. Speaker, I suggest the President not shut the government down.

MORE ON THE DO-NOTHING CONGRESS

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

Mr. DEFAZIO. Mr. Speaker, today is day 109 of work for this do-nothing Congress. No budget, not done, we are going to do another temporary continuing resolution to fund the entire United States Government at 2:30 this afternoon.

The Republican leaders would like to blame the President for the fact that they have failed for the first time in 25 years in Congress to produce a budget resolution and a budget to send to the President. The reason they have failed

is we have only worked 109 days here in Washington, D.C., and many of those days were starting at 5:00, out at 6:00. A lot of Americans would love to have that kind of a schedule.

The average American has worked 200 days this year. Day in, day out they have produced. They have worked, and they have gotten a modest salary.

The Republican Congress has worked only 109 days in Washington, D.C., and failed miserably in its most basic task, producing a budget, let alone in producing other legislation to protect Americans against health care fraud and other issues.

ON EDUCATION

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

Mr. BALLENGER. Mr. Speaker, let us compare and contrast what the Democrats want to do with money for education and what Republicans propose to do with the money.

Republicans want the money to go to the classroom. They want their local schools and parents to have more control over those dollars that are spent. Democrats want more Federal control over the money. They want more money to go to the Department of Education, the bureaucracy. The ironic thing is that you will never find a Democrat who will admit more Federal money means more Federal control, more bureaucracy and less power in the hands of the local schools. No, you will never find a Democrat to admit that, but just ask yourself this question, when was the last time Washington intervened and did not ask for more control? When was the last time the experts in Washington, D.C., did not try to tell, have more say in how those Washington dollars were spent?

It all comes down to power and control, more in the hands of parents and local schools or in the hands of the Federal bureaucrats in Washington.

THE GRAY MULE CONGRESS

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

Mr. BERRY. Mr. Speaker, this has been called the do-nothing Congress. In the lower Mississippi River Valley, where I come from, they have got a term called gray mule. I call it the gray mule Congress.

What that term means is, in the frontier days, they had a lot of poker games. And if a fellow was not doing well in the poker game, he would jump up about the time he thought the game was going to end, knock the lantern over, turn the lights out, try to steal all the money he could, and take off and run.

That is what the Republican Congress is trying to do to the American people. We come up here at the last minute, no budget, no appropriations, let us cram all this unscrupulous stuff into one bill and try to trick the American people into thinking we are doing their job and taking care of their business when we have not saved Social Security. We have not protected them in the health care area, and the list goes on and on of things we have not done.

Let us recognize this gray mule Congress for what it is.

AVOIDING A GOVERNMENT SHUTDOWN

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

Mr. PAPPAS. Mr. Speaker, Republicans are willing to work as long as possible and as long as needed to avoid a government shutdown. As evidence of our good faith, Republicans have been working with the other side since the spring to make sure that the government can remain operating while our differences are resolved.

The differences between the two parties are real, despite the constant efforts by some to portray disagreements between conservatives and liberals as partisan politics. In fact, Democrats and Republicans have profound philosophical differences about government's role in society that make conflict inevitable and healthy in a democracy.

Vigorous debate with each side fighting for its beliefs is the hallmark of democracy, and suggestions to the contrary are mistaken. Republicans believe that the Federal Government is too big, too powerful and too intrusive in our lives. Liberals strongly disagree and, in fact, propose new government programs each and every year. We might disagree, but we do not wish to shut the government down.

Mr. President, do not shut the government down.

THE FAILED REPUBLICAN CONGRESS

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

Ms. DELAURO. Mr. Speaker, it is absurd. The Republican-controlled Congress has had this session of the Congress shut down for the last 2 years. They have failed. For 10 months the leadership has stalled, dallied and wasted the American people's time and money.

Republicans are running scared out of town this week, and they will leave without having delivered anything for the people of this country: no small class size for grades 1 through 3, no classrooms connected to the Internet, no guaranteed access to emergency rooms, the right to choose your own doctor, no guaranteed access to specialty care, and no accountability for HMOs for making medical decisions that they are making today, and nothing by way of reform to help Social Security except to raid the Social Security Trust Fund.

They have done a hit and run on the American people. They killed tobacco reform on behalf of special interests, and they killed campaign finance reform for special interests. This Congress, this Republican-controlled Congress, has failed, and the American public knows it.

OCEAN ROUTING

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

Mr. FRANKS of New Jersey. Mr. Speaker, for more than a decade, residents of Northern and Central New Jersey have been forced to endure intolerable levels of jet aircraft noise 24 hours a day. Recently the FAA experimented with a route change, but my constituents found that this test of the 260-degree turn was an unmitigated disaster, subjecting them to even more noise. It is time for the FAA to finally test a citizen-driven alternative, ocean routing.

□ 1415

Computer modeling has shown that routing planes over the Atlantic Ocean would be safe and would dramatically reduce aircraft noise for hundreds of thousands of residents.

This plan has widespread support from the New Jersey congressional delegation. I urge the FAA to stop stonewalling and finally give ocean routing a thorough and legitimate test. I call on the FAA to approve a 90-day test of ocean routing so we can determine once and for all whether it can bring peace and quiet to New Jersey communities, while keeping the flying public safe.

REPUBLICANS SHOULD STOP SPINNING TRUTH ABOUT WHO IS TRYING TO SHUT GOVERNMENT DOWN

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

Ms. WATERS. Mr. Speaker, the American public is watching Members of Congress trying to put a spin on why we have not done our work. In the final analysis, the proof of the pudding is in the eating. We have either completed our work or we have not.

We have not completed our work. That is for sure. We are here, and we

have not passed all of our appropriation bills. We see people coming to this floor talking about, oh, Mr. President, please do not shut the House down. Well, the buck stops at the top. The Republicans are in charge of this House. They make every decision about how the committees work or when we come to this floor.

I fly all the way from California almost every week. No votes are up. Sometimes, we only work a day and a half. I fly all the way back home, and I come back thinking we are going to work on a Monday. Guess what? No votes.

We do not need to tell the American public about who is going to shut the government down. The American public is smart. They know who is in charge. They know who has not done their work. Let us stop spinning and tell the truth.

REPUBLICAN-CONTROLLED CONGRESS HAS HAD GREAT ACCOMPLISHMENTS IN LAST 2 YEARS

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

Mr. WELLER. Mr. Speaker, I look back over the last 2 years, and I have listened to a lot of rhetoric on the left side. And coming from the left there are a lot of those who have said, they just cannot do it. Two years ago, they said, Republicans cannot balance the budget. They said, the Republicans cannot balance the budget and cut taxes for the middle class. They said, the Republicans cannot reform the welfare system. They said, the Republicans cannot fix the IRS; and they said, the Republicans cannot balance the budget and help schools at the same time. Well, we did.

In the last 2 years, this Republican Congress has had great accomplishments: balancing the budget for the first time in 28 years, cutting taxes for the middle class for the first time in 16 years, reforming welfare for the first time in a generation, taming the tax collector for the first time ever; and when we balanced the budget, we increased funding for education by 10 percent.

Today, we have the lowest student loan interest rate in 17 years. We doubled Pell Grants for low-income students who qualified, twice what they gave. We increased funding for Head Start, for Special Ed. We can save Social Security, and we can help our schools.

SINCE 1977, CONGRESS FAILED AT LEAST 11 TIMES TO PASS AT LEAST ONE APPROPRIATION BILL AND SHUT DOWN GOVERNMENT 9 TIMES SINCE 1990

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

Mr. STEARNS. Mr. Speaker, we are now in the midst of another battle over the budget. The President remains steadfast in his unwillingness to meet and try to find a way to work out a compromise so we can keep the government running.

The President expressed dismay that all 13 appropriation bills had not been passed by the Congress and signed into law. Yet, since 1977, when the Democrats controlled Congress, the Congress failed entirely to pass all 13 appropriation bills 11 times. That is right. At least 11 times a Democrat Congress failed to pass at least one of the appropriation bills at all.

Since 1990, the Democrat-run Congress has shut down the government nine times, the last time in 1990 when they forced President Bush to accept a compromise with them over the budget, which resulted in Mr. Bush breaking his "no new tax" pledge.

I regret today that the Democrats seem to have forgotten how many times they shut the government down.

PRESIDENT SHOULD BE IN WASHINGTON, NOT ATTENDING FUNDRAISERS FOR DEMOCRAT CANDIDATES

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

Mr. SOUDER. Mr. Speaker, we have been hearing a lot of panicky people up here today on the other side. The truth is that the basic appropriations have been done for a long time. We have been held up over some disagreements that we have known that were going to come for a year. Yet the administration, apparently because a lot of staffers were running around working on apology statements or coming up with legal strategies, is only now starting to focus and dragging in day after day.

I want to go through one other thing. This is the President's schedule for this afternoon, when we are on the verge of a government shutdown:

At 2:45, he is going to make a statement on the South Lawn;

At 3:05, he boards Air Force One;

At 3:15, he heads for Andrews Air Force base;

When he gets to New York, he arrives at the Wall Street Landing Zone.

Then, at 5:05, he boards a motorcade that departs for Wall Street for a fundraiser at the Waldorf-Astoria Hotel;

At 5:05, he arrives at the Waldorf-Astoria Hotel;

At 5:55, he greets a reception in honor of a New York gubernatorial candidate;

At 6:30, he concludes his remarks; and

At 6:45, he goes over to the Hilton Towers for a fundraiser for the gentleman from New York (Mr. CHARLES SCHUMER).

He should be here, not at hotels in New York raising money.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

Mr. HUTCHINSON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3494) to amend title 18, United States Code, with respect to violent sex crimes against children, and for other purposes.

The Clerk read as follows:

SENATE AMENDMENTS

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Protection of Children From Sexual Predators 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—PROTECTION OF CHILDREN FROM PREDATORS

Sec. 101. Use of interstate facilities to transmit identifying information about a minor for criminal sexual purposes.

Sec. 102. Coercion and enticement.

Sec. 103. Increased penalties for transportation of minors or assumed minors for illegal sexual activity and related crimes.

Sec. 104. Repeat offenders in transportation offense.

Sec. 105. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.

Sec. 106. Transportation generally.

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

Sec. 201. Additional jurisdictional base for prosecution of production of child pornography.

Sec. 202. Increased penalties for child pornography offenses.

Sec. 203. "Zero tolerance" for possession of child pornography.

TITLE III—SEXUAL ABUSE PREVENTION

Sec. 301. Elimination of redundancy and ambiguities.

Sec. 302. Increased penalties for abusive sexual contact.

Sec. 303. Repeat offenders in sexual abuse cases.

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

Sec. 401. Transfer of obscene material to minors.

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

Sec. 501. Death or life in prison for certain offenses whose victims are children.
Sec. 502. Sentencing enhancement for chapter 117 offenses.
Sec. 503. Increased penalties for use of a computer in the sexual abuse or exploitation of a child.
Sec. 504. Increased penalties for knowing misrepresentation in the sexual abuse or exploitation of a child.
Sec. 505. Increased penalties for pattern of activity of sexual exploitation of children.
Sec. 506. Clarification of definition of distribution of pornography.
Sec. 507. Directive to the United States Sentencing Commission.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

Sec. 601. Pretrial detention of sexual predators.
Sec. 602. Criminal forfeiture for offenses against minors.
Sec. 603. Civil forfeiture for offenses against minors.
Sec. 604. Reporting of child pornography by electronic communication service providers.
Sec. 605. Civil remedy for personal injuries resulting from certain sex crimes against children.
Sec. 606. Administrative subpoenas.
Sec. 607. Grants to States to offset costs associated with sexually violent offender registration requirements.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

Sec. 701. Authority to investigate serial killings.
Sec. 702. Kidnapping.
Sec. 703. Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

Sec. 801. Prisoner access.
Sec. 802. Recommended prohibition.
Sec. 803. Survey.

TITLE IX—STUDIES

Sec. 901. Study on limiting the availability of pornography on the Internet.
Sec. 902. Study of hotlines.

TITLE I—PROTECTION OF CHILDREN FROM PREDATORS

SEC. 101. USE OF INTERSTATE FACILITIES TO TRANSMIT IDENTIFYING INFORMATION ABOUT A MINOR FOR CRIMINAL SEXUAL PURPOSES.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Use of interstate facilities to transmit information about a minor

"Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly initiates the transmission of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Use of interstate facilities to transmit information about a minor.".

SEC. 102. COERCION AND ENTICEMENT.

Section 2422 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or attempts to do so," before "shall be fined"; and

(B) by striking "five" and inserting "10"; and

(2) by striking subsection (b) and inserting the following:

"(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.".

SEC. 103. INCREASED PENALTIES FOR TRANSPORTATION OF MINORS OR ASSUMED MINORS FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.

Section 2423 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both."; and

(2) in subsection (b), by striking "10 years" and inserting "15 years".

SEC. 104. REPEAT OFFENDERS IN TRANSPORTATION OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2426. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter.

"(b) DEFINITIONS.—In this section—

"(1) the term 'prior sex offense conviction' means a conviction for an offense—

"(A) under this chapter, chapter 109A, or chapter 110; or

"(B) under State law for an offense consisting of conduct that would have been an offense under a chapter referred to in paragraph (1) if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

"(2) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2426. Repeat offenders.".

SEC. 105. INCLUSION OF OFFENSES RELATING TO CHILD PORNOGRAPHY IN DEFINITION OF SEXUAL ACTIVITY FOR WHICH ANY PERSON CAN BE CHARGED WITH A CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense

"In this chapter, the term 'sexual activity for which any person can be charged with a criminal offense' includes the production of child pornography, as defined in section 2256(8).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2427. Inclusion of offenses relating to child pornography in definition of sexual activity for which any person can be charged with a criminal offense.".

SEC. 106. TRANSPORTATION GENERALLY.

Section 2421 of title 18, United States Code, is amended—

(1) by inserting "or attempts to do so," before "shall be fined"; and

(2) by striking "five years" and inserting "10 years".

TITLE II—PROTECTION OF CHILDREN FROM CHILD PORNOGRAPHY

SEC. 201. ADDITIONAL JURISDICTIONAL BASE FOR PROSECUTION OF PRODUCTION OF CHILD PORNOGRAPHY.

(a) USE OF A CHILD.—Section 2251(a) of title 18, United States Code, is amended by inserting "if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(b) ALLOWING USE OF A CHILD.—Section 2251(b) of title 18, United States Code, is amended by inserting ", if that visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer," before "or if".

(c) INCREASED PENALTIES IN SECTION 2251(d).—Section 2251(d) of title 18, United States Code, is amended by striking "or chapter 109A" each place it appears and inserting ", chapter 109A, or chapter 117".

SEC. 202. INCREASED PENALTIES FOR CHILD PORNOGRAPHY OFFENSES.

(a) INCREASED PENALTIES IN SECTION 2252.—Section 2252(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

(b) INCREASED PENALTIES IN SECTION 2252A.—Section 2252A(b) of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2), by striking "or chapter 109A" and inserting ", chapter 109A, or chapter 117"; and

(2) in paragraph (2), by striking "the possession of child pornography" and inserting "aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography".

SEC. 203. "ZERO TOLERANCE" FOR POSSESSION OF CHILD PORNOGRAPHY.

(a) MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by striking "3 or more" each place that term appears and inserting "1 or more"; and

(2) by adding at the end the following:

"(c) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—

"(1) possessed less than 3 matters containing any visual depiction proscribed by that paragraph; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

"(A) took reasonable steps to destroy each such visual depiction; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.".

(b) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Section 2252A of title 18, United States Code, is amended—

(1) in subsection (a)(5), by striking "3 or more images" each place that term appears and inserting "an image"; and

(2) by adding at the end the following:

"(d) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (a)(5) that the defendant—

"(1) possessed less than 3 images of child pornography; and

"(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any image or copy thereof—

"(A) took reasonable steps to destroy each such image; or

"(B) reported the matter to a law enforcement agency and afforded that agency access to each such image.".

TITLE III—SEXUAL ABUSE PREVENTION

SEC. 301. ELIMINATION OF REDUNDANCY AND AMBIGUITIES.

(a) MAKING CONSISTENT LANGUAGE ON AGE DIFFERENTIAL.—Section 2241(c) of title 18, United States Code, is amended by striking "younger than that person" and inserting "younger than the person so engaging".

(b) REDUNDANCY.—Section 2243(a) of title 18, United States Code, is amended by striking "crosses a State line with intent to engage in a sexual act with a person who has not attained the age of 12 years, or".

(c) STATE DEFINED.—Section 2246 of title 18, United States Code, is amended—

(1) in paragraph (5), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following:

"(6) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, possession, or territory of the United States.".

SEC. 302. INCREASED PENALTIES FOR ABUSIVE SEXUAL CONTACT.

Section 2244 of title 18, United States Code, is amended by adding at the end the following:

"(c) OFFENSES INVOLVING YOUNG CHILDREN.—If the sexual contact that violates this section is with an individual who has not attained the age of 12 years, the maximum term of imprisonment that may be imposed for the offense shall be twice that otherwise provided in this section.".

SEC. 303. REPEAT OFFENDERS IN SEXUAL ABUSE CASES.

Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of this chapter after a prior sex offense conviction shall be twice the term otherwise provided by this chapter.

"(b) PRIOR SEX OFFENSE CONVICTION DEFINED.—In this section, the term 'prior sex offense conviction' has the meaning given that term in section 2426(b).".

TITLE IV—PROHIBITION ON TRANSFER OF OBSCENE MATERIAL TO MINORS

SEC. 401. TRANSFER OF OBSCENE MATERIAL TO MINORS.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1470. Transfer of obscene material to minors

"Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be fined under this title, imprisoned not more than 10 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"1470. Transfer of obscene material to minors.".

TITLE V—INCREASED PENALTIES FOR OFFENSES AGAINST CHILDREN AND FOR REPEAT OFFENDERS

SEC. 501. DEATH OR LIFE IN PRISON FOR CERTAIN OFFENSES WHOSE VICTIMS ARE CHILDREN.

Section 3559 of title 18, United States Code, is amended by adding at the end the following:

"(d) DEATH OR IMPRISONMENT FOR CRIMES AGAINST CHILDREN.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, a person who is convicted of a Federal offense that is a serious violent felony (as defined in subsection (c)) or a violation of section 2422, 2423, or 2251 shall, unless the sentence of death is imposed, be sentenced to imprisonment for life, if—

"(A) the victim of the offense has not attained the age of 14 years;

"(B) the victim dies as a result of the offense; and

"(C) the defendant, in the course of the offense, engages in conduct described in section 3591(a)(2).

"(2) EXCEPTION.—With respect to a person convicted of a Federal offense described in paragraph (1), the court may impose any lesser sentence that is authorized by law to take into account any substantial assistance provided by the defendant in the investigation or prosecution of another person who has committed an offense, in accordance with the Federal Sentencing Guidelines and the policy statements of the Federal Sentencing Commission pursuant to section 994(p) of title 28, or for other good cause.".

SEC. 502. SENTENCING ENHANCEMENT FOR CHAPTER 117 OFFENSES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines to provide a sentencing enhancement for offenses under chapter 117 of title 18, United States Code.

(b) INSTRUCTION TO COMMISSION.—In carrying out subsection (a), the United States Sentencing Commission shall ensure that the sentences, guidelines, and policy statements for offenders convicted of offenses described in subsection (a) are appropriately severe and reasonably consistent with other relevant directives and with other Federal Sentencing Guidelines.

SEC. 503. INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines for—

(A) aggravated sexual abuse under section 2241 of title 18, United States Code;

(B) sexual abuse under section 2242 of title 18, United States Code;

(C) sexual abuse of a minor or ward under section 2243 of title 18, United States Code; and

(D) coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant used a computer with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in any prohibited sexual activity.

SEC. 504. INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to provide appropriate enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, coerce, or facilitate the transport of a child of an age specified in the applicable provision of law referred to in paragraph (1) to engage in a prohibited sexual activity.

SEC. 505. INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a minor under section 2422(b) of title 18, United States Code, contacting a minor under section 2422(c) of title 18, United States Code, and transportation of minors and travel under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal Sentencing Guidelines to increase penalties applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

SEC. 506. CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal Sentencing Guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal Sentencing Guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

SEC. 507. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

In carrying out this title, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal Sentencing Guidelines subject to this title, ensure reasonable consistency with other guidelines of the Federal Sentencing Guidelines; and

(2) with respect to an offense subject to the Federal Sentencing Guidelines, avoid duplicative punishment under the Federal Sentencing Guidelines for substantially the same offense.

TITLE VI—CRIMINAL, PROCEDURAL, AND ADMINISTRATIVE REFORMS

SEC. 601. PRETRIAL DETENTION OF SEXUAL PREDATORS.

Section 3156(a)(4) of title 18, United States Code, is amended by striking subparagraph (C) and inserting the following:

"(C) any felony under chapter 109A, 110, or 117; and".

SEC. 602. CRIMINAL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2253 of title 18, United States Code, is amended by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or who is convicted of an offense under section 2421, 2422, or 2423 of chapter 117,".

SEC. 603. CIVIL FORFEITURE FOR OFFENSES AGAINST MINORS.

Section 2254(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or used or intended to be used to commit or to promote the commission of an offense under section 2421, 2422, or 2423 of chapter 117,"; and

(2) in paragraph (3), by striking "or 2252 of this chapter" and inserting "2252, 2252A, or 2260 of this chapter, or obtained from a violation of section 2421, 2422, or 2423 of chapter 117,".

SEC. 604. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) IN GENERAL.—The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended by inserting after section 226 the following:

"SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

"(a) DEFINITIONS.—In this section—

"(1) the term 'electronic communication service' has the meaning given the term in section 2510 of title 18, United States Code; and

"(2) the term 'remote computing service' has the meaning given the term in section 2711 of title 18, United States Code.

"(b) REQUIREMENTS.—

"(1) DUTY TO REPORT.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to a law enforcement agency or agencies designated by the Attorney General.

"(2) DESIGNATION OF AGENCIES.—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be made under paragraph (1).

"(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

"(A) in the case of an initial failure to make a report, not more than $50,000; and

"(B) in the case of any second or subsequent failure to make a report, not more than $100,000.

"(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

"(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

"(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

"(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

"(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information contained in that report, except that disclosure of such information may be made—

"(A) to an attorney for the government for use in the performance of the official duties of the attorney;

"(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

"(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

"(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

"(2) DEFINITIONS.—In this subsection, the terms 'attorney for the government' and 'State' have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.".

(b) EXCEPTION TO PROHIBITION ON DISCLOSURE.—Section 2702(b)(6) of title 18, United States Code, is amended to read as follows:

"(6) to a law enforcement agency—

"(A) if the contents—

"(i) were inadvertently obtained by the service provider; and

"(ii) appear to pertain to the commission of a crime; or

"(B) if required by section 227 of the Crime Control Act of 1990.".

SEC. 605. CIVIL REMEDY FOR PERSONAL INJURIES RESULTING FROM CERTAIN SEX CRIMES AGAINST CHILDREN.

Section 2255(a) of title 18, United States Code, is amended by striking "2251 or 2252" and inserting "2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423".

SEC. 606. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended—

(1) in section 3486, by striking the section designation and heading and inserting the following:

"§3486. Administrative subpoenas in Federal health care investigations"; and

(2) by adding at the end the following:

"§3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—In any investigation relating to any act or activity involving a violation of section 1201, 2241(c), 2242, 2243, 2251, 2251A, 2252, 2252A, 2260, 2421, 2422, or 2423 of this title in which the victim is an individual who has not attained the age of 18 years, the Attorney General, or the designee of the Attorney General, may issue in writing and cause to be served a subpoena—

"(A) requiring a provider of electronic communication service or remote computing service to disclose the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, which may be relevant to an authorized law enforcement inquiry; or

"(B) requiring a custodian of records to give testimony concerning the production and authentication of such records or information.

"(2) ATTENDANCE OF WITNESSES.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) PROCEDURES APPLICABLE.—The same procedures for service and enforcement as are provided with respect to investigative demands in section 3486 apply with respect to a subpoena issued under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3486 and inserting the following:

"3486. Administrative subpoenas in Federal health care investigations.

"3486A. Administrative subpoenas in cases involving child abuse and child sexual exploitation.".

SEC. 607. GRANTS TO STATES TO OFFSET COSTS ASSOCIATED WITH SEXUALLY VIOLENT OFFENDER REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended—

(1) by redesignating the second subsection designated as subsection (g) as subsection (h); and

(2) by adding at the end the following:

"(i) GRANTS TO STATES FOR COSTS OF COMPLIANCE.—

"(1) PROGRAM AUTHORIZED.—

"(A) IN GENERAL.—The Director of the Bureau of Justice Assistance (in this subsection referred to as the 'Director') shall carry out a program, which shall be known as the 'Sex Offender Management Assistance Program' (in this subsection referred to as the 'SOMA program'), under which the Director shall award a grant to each eligible State to offset costs directly associated with complying with this section.

"(B) USES OF FUNDS.—Each grant awarded under this subsection shall be—

"(i) distributed directly to the State for distribution to State and local entities; and

"(ii) used for training, salaries, equipment, materials, and other costs directly associated with complying with this section.

"(2) ELIGIBILITY.—

"(A) APPLICATION.—To be eligible to receive a grant under this subsection, the chief executive of a State shall, on an annual basis, submit to the Director an application (in such form and containing such information as the Director may reasonably require) assuring that—

"(i) the State complies with (or made a good faith effort to comply with) this section; and

"(ii) where applicable, the State has penalties comparable to or greater than Federal penalties for crimes listed in this section, except that the Director may waive the requirement of this clause if a State demonstrates an overriding need for assistance under this subsection.

"(B) REGULATIONS.—

"(i) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Director shall promulgate regulations to implement this subsection (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this subsection. In allocating funds under this subsection, the Director may consider the annual number of sex offenders registered in each eligible State's monitoring and notification programs.

"(ii) CERTAIN TRAINING PROGRAMS.—Prior to implementing this subsection, the Director shall study the feasibility of incorporating into the SOMA program the activities of any technical assistance or training program established as a result of section 40152 of this Act. In a case in which incorporating such activities into the SOMA program will eliminate duplication of efforts or administrative costs, the Director shall take administrative actions, as allowable, and make recommendations to Congress to incorporate such activities into the SOMA program prior to implementing the SOMA program.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for each of fiscal years 1999 and 2000.".

(b) STUDY.—Not later than March 1, 2000, the Director shall conduct a study to assess the efficacy of the Sex Offender Management Assistance Program under section 170101(i) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(i)), as added by this section, and submit recommendations to Congress.

TITLE VII—MURDER AND KIDNAPPING INVESTIGATIONS

SEC. 701. AUTHORITY TO INVESTIGATE SERIAL KILLINGS.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Investigation of serial killings

"(a) IN GENERAL.—The Attorney General and the Director of the Federal Bureau of Investigation may investigate serial killings in violation of the laws of a State or political subdivision, if such investigation is requested by the head of a law enforcement agency with investigative or prosecutorial jurisdiction over the offense.

"(b) DEFINITIONS.—In this section:

"(1) KILLING.—The term 'killing' means conduct that would constitute an offense under section 1111 of title 18, United States Code, if Federal jurisdiction existed.

"(2) SERIAL KILLINGS.—The term 'serial killings' means a series of 3 or more killings, not less than 1 of which was committed within the United States, having common characteristics such as to suggest the reasonable possibility that the crimes were committed by the same actor or actors.

"(3) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by adding at end the following:

"540B. Investigation of serial killings.".

SEC. 702. KIDNAPPING.

(a) CLARIFICATION OF ELEMENT OF OFFENSE.—Section 1201(a)(1) of title 18, United States Code, is amended by inserting ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began" before the semicolon.

(b) TECHNICAL AMENDMENT.—Section 1201(a)(5) of title 18, United States Code, is amended by striking "designated" and inserting "described".

(c) 24-HOUR RULE.—Section 1201(b) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.".

SEC. 703. MORGAN P. HARDIMAN CHILD ABDUCTION AND SERIAL MURDER INVESTIGATIVE RESOURCES CENTER.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall establish within the Federal Bureau of Investigation a Child Abduction and Serial Murder Investigative Resources Center to be known as the "Morgan P. Hardiman Child Abduction and Serial Murder Investigative Resources Center" (in this section referred to as the "CASMIRC").

(b) PURPOSE.—The CASMIRC shall be managed by National Center for the Analysis of Violent Crime of the Critical Incident Response Group of the Federal Bureau of Investigation (in this section referred to as the "NCAVC"), and by multidisciplinary resource teams in Federal Bureau of Investigation field offices, in order to provide investigative support through the coordination and provision of Federal law enforcement resources, training, and application of other multidisciplinary expertise, to assist Federal, State, and local authorities in matters involving child abductions, mysterious disappearance of children, child homicide, and serial murder across the country. The CASMIRC shall be co-located with the NCAVC.

(c) DUTIES OF THE CASMIRC.—The CASMIRC shall perform such duties as the Attorney General determines appropriate to carry out the purposes of the CASMIRC, including—

(1) identifying, developing, researching, acquiring, and refining multidisciplinary information and specialities to provide for the most current expertise available to advance investigative knowledge and practices used in child abduction, mysterious disappearance of children, child homicide, and serial murder investigations;

(2) providing advice and coordinating the application of current and emerging technical, forensic, and other Federal assistance to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(3) providing investigative support, research findings, and violent crime analysis to Federal, State, and local authorities in child abduction, mysterious disappearances of children, child homicide, and serial murder investigations;

(4) providing, if requested by a Federal, State, or local law enforcement agency, on site consultation and advice in child abduction, mysterious disappearances of children, child homicide and serial murder investigations;

(5) coordinating the application of resources of pertinent Federal law enforcement agencies, and other Federal entities including, but not limited to, the United States Customs Service, the Secret Service, the Postal Inspection Service, and the United States Marshals Service, as appropriate, and with the concurrence of the agency head to support Federal, State, and local law enforcement involved in child abduction, mysterious disappearance of a child, child homicide, and serial murder investigations;

(6) conducting ongoing research related to child abductions, mysterious disappearances of children, child homicides, and serial murder, including identification and investigative application of current and emerging technologies, identification of investigative searching technologies and methods for physically locating abducted children, investigative use of offender behavioral assessment and analysis concepts, gathering statistics and information necessary for case identification, trend analysis, and case linkages to advance the investigative effectiveness of outstanding abducted children cases, develop investigative systems to identify and track serious serial offenders that repeatedly victimize children for comparison to unsolved cases, and other investigative research pertinent to child abduction, mysterious disappearance of a child, child homicide, and serial murder covered in this section;

(7) working under the NCAVC in coordination with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to provide appropriate training to Federal, State, and local law enforcement in matters regarding child abductions, mysterious disappearances of children, child homicides; and

(8) establishing a centralized repository based upon case data reflecting child abductions, mysterious disappearances of children, child homicides and serial murder submitted by State and local agencies, and an automated system for the efficient collection, retrieval, analysis, and reporting of information regarding CASMIRC investigative resources, research, and requests for and provision of investigative support services.

(d) APPOINTMENT OF PERSONNEL TO THE CASMIRC.—

(1) SELECTION OF MEMBERS OF THE CASMIRC AND PARTICIPATING STATE AND LOCAL LAW ENFORCEMENT PERSONNEL.—The Director of the Federal Bureau of Investigation shall appoint the members of the CASMIRC. The CASMIRC shall be staffed with Federal Bureau of Investigation personnel and other necessary personnel selected for their expertise that would enable them to assist in the research, data collection, and analysis, and provision of investigative support in child abduction, mysterious disappearance of children, child homicide and serial murder investigations. The Director may, with concurrence of the appropriate State or local agency, also appoint State and local law enforcement personnel to work with the CASMIRC.

(2) STATUS.—Each member of the CASMIRC (and each individual from any State or local law enforcement agency appointed to work with the CASMIRC) shall remain as an employee of that member's or individual's respective agency for all purposes (including the purpose of performance review), and service with the CASMIRC shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis, except if appropriate to reimburse State and local law enforcement for overtime costs for an individual appointed to work with the resource team. Additionally, reimbursement of travel and per diem expenses will occur for State and local law enforcement participation in resident fellowship programs at the NCAVC when offered.

(3) TRAINING.—CASMIRC personnel, under the guidance of the Federal Bureau of Investigation's National Center for the Analysis of Violent Crime and in consultation with the National Center For Missing and Exploited Children, shall develop a specialized course of instruction devoted to training members of the CASMIRC consistent with the purpose of this section. The CASMIRC shall also work with the National Center For Missing and Exploited Children and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice to develop a course of instruction for State and local law enforcement personnel to facilitate the dissemination of the most current multidisciplinary expertise in the investigation of child abductions, mysterious disappearances of children, child homicides, and serial murder of children.

(e) REPORT TO CONGRESS.—One year after the establishment of the CASMIRC, the Attorney General shall submit to Congress a report, which shall include—

(1) a description of the goals and activities of the CASMIRC; and

(2) information regarding—

(A) the number and qualifications of the members appointed to the CASMIRC;

(B) the provision of equipment, administrative support, and office space for the CASMIRC; and

(C) the projected resource needs for the CASMIRC.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, and 2001.

(g) CONFORMING AMENDMENT.—Subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 5776a et seq.) is repealed.

TITLE VIII—RESTRICTED ACCESS TO INTERACTIVE COMPUTER SERVICES

SEC. 801. PRISONER ACCESS.

Notwithstanding any other provision of law, no agency, officer, or employee of the United States shall implement, or provide any financial assistance to, any Federal program or Federal activity in which a Federal prisoner is allowed access to any electronic communication service or remote computing service without the supervision of an official of the Federal Government.

SEC. 802. RECOMMENDED PROHIBITION.

(a) FINDINGS.—Congress finds that—

(1) a Minnesota State prisoner, serving 23 years for molesting teenage girls, worked for a nonprofit work and education program inside the prison, through which the prisoner had unsupervised access to the Internet;

(2) the prisoner, through his unsupervised access to the Internet, trafficked in child pornography over the Internet;

(3) Federal law enforcement authorities caught the prisoner with a computer disk containing 280 pictures of juveniles engaged in sexually explicit conduct;

(4) a jury found the prisoner guilty of conspiring to trade in child pornography and possessing child pornography;

(5) the United States District Court for the District of Minnesota sentenced the prisoner to 87 months in Federal prison, to be served upon the completion of his 23-year State prison term; and

(6) there has been an explosion in the use of the Internet in the United States, further placing our Nation's children at risk of harm and exploitation at the hands of predators on the Internet and increasing the ease of trafficking in child pornography.

(b) SENSE OF CONGRESS.—It is the sense of Congress that State Governors, State legislators, and State prison administrators should prohibit unsupervised access to the Internet by State prisoners.

SEC. 803. SURVEY.

(a) SURVEY.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a survey of the States to determine to what extent each State allows prisoners access to any interactive computer service and whether such access is supervised by a prison official.

(b) REPORT.—The Attorney General shall submit a report to Congress of the findings of the survey conducted pursuant to subsection (a).

(c) STATE DEFINED.—In this section, the term "State" means each of the 50 States and the District of Columbia.

TITLE IX—STUDIES

SEC. 901. STUDY ON LIMITING THE AVAILABILITY OF PORNOGRAPHY ON THE INTERNET.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall request that the National Academy of Sciences, acting through its National Research Council, enter into a contract to conduct a study of computer-based technologies and other approaches to the problem of the availability of pornographic material to children on the Internet, in order to develop possible amendments to Federal criminal law and other law enforcement techniques to respond to the problem.

(b) CONTENTS OF STUDY.—The study under this section shall address each of the following:

(1) The capabilities of present-day computer-based control technologies for controlling electronic transmission of pornographic images.

(2) Research needed to develop computer-based control technologies to the point of practical utility for controlling the electronic transmission of pornographic images.

(3) Any inherent limitations of computer-based control technologies for controlling electronic transmission of pornographic images.

(4) Operational policies or management techniques needed to ensure the effectiveness of these control technologies for controlling electronic transmission of pornographic images.

(c) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a final report of the study under this section, which report shall—

(1) set forth the findings, conclusions, and recommendations of the Council; and

(2) be submitted by the Committees on the Judiciary of the House of Representatives and the Senate to relevant Government agencies and committees of Congress.

SEC. 902. STUDY OF HOTLINES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall conduct a study in accordance with subsection (b) and submit to Congress a report on the results of that study.

(b) CONTENTS OF STUDY.—The study under this section shall include an examination of—

(1) existing State programs for informing the public about the presence of sexual predators released from prison, as required in section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), including the use of CD-ROMs, Internet databases, and Sexual Offender Identification Hotlines, such as those used in the State of California; and

(2) the feasibility of establishing a national hotline for parents to access a Federal Bureau of Investigation database that tracks the location of convicted sexual predators established under section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) and, in determining that feasibility, the Attorney General shall examine issues including the cost, necessary changes to Federal and State laws necessitated by the creation of such a hotline, consistency with Federal and State case law pertaining to community notification, and the need for, and accuracy and reliability of, the information available through such a hotline.

Amend the title so as to read: "An Act to amend title 18, United States Code, to protect children from sexual abuse and exploitation, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Florida (Mr. HASTINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. HUTCHINSON).

GENERAL LEAVE

Mr. HUTCHINSON. 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. 3494, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 3494, the Child Protection and Sexual Predator Punishment Act of 1998, is a very important piece of legislation that responds to the horrifying threat of sex crimes against children, particularly crimes against children facilitated by the Internet.

The House passed this measure in June by a vote of 416 to zero, and the other body passed the bill with amendments by unanimous consent this past Friday night.

Mr. Speaker, industry experts estimate that more than 10 million children currently spend time on the information superhighway; and by the year 2002, 45 million children will use the Internet to talk with friends, do homework assignments and explore the vast world around them. Computer technologies and Internet innovations have unveiled a world of information that is literally just a mouse click away.

Unfortunately, individuals who seek children to sexually exploit and victimize them are also a mouse click away. Sex offenders who prey on children no longer need to hang out in parks or malls or school yards. Instead, they can roam from web site to chat room seeking victims with little risk of detection.

The anonymous nature of the online relationship allows users to misrepresent their age, gender or interests. Children are rarely supervised while they are on the Internet. Unfortunately, this is exactly what cyber-predators look for.

We are seeing numerous accounts in which pedophiles have used the Internet to seduce or persuade children to meet them to engage in sexual activities. Children who have been persuaded to meet their new online friend face-to-face have been kidnapped, raped, photographed for child pornography, or

worse. Some children have never been heard from again.

Three factors: the skyrocketing online presence of children, the proliferation of child pornography on the Internet and the presence of sexual predators trolling for unsupervised contact with children has resulted in a chilling mix which has resulted in far too many terrible tragedies that steal the innocence from our children and create scars for life.

H.R. 3494 provides law enforcement with the tools it needs to investigate and bring to justice those individuals who prey on our Nation's children and sends a message to those individuals who commit these heinous crimes that they will be punished swiftly and severely.

The other body made some amendments to the House-passed version of this bill, which I think are disappointing. The underlying House bill would have prohibited contacting a minor over the Internet for purposes of engaging in illegal sexual activity. The Senate amendment, which we are considering today, strikes this language.

The House bill also would have established a 3-year minimum term of imprisonment for using that computer to entice or coerce a minor to engage in illegal sexual activity and would have cracked down on serial rapists by mandating life in prison for such repeat offenders. Unfortunately, the Senate amendment strikes this language.

However, there are a good number of things in this bill, and I am convinced the bill will be of great assistance to the criminal justice community.

This bill targets pedophiles who stalk children on the Internet. It prohibits knowingly transferring obscene materials to a minor or an assumed minor over the Internet. This bill also prohibits transmitting or advertising identifying information about a child to encourage or facilitate criminal sexual activity. This bill doubles the maximum prison sentence from 5 to 10 years for enticing a minor to travel across State lines to engage in illegal sexual activity and increases the maximum prison sentence from 10 to 15 years for persuading a minor to engage in prostitution or a sexual act.

In addition to Internet-related crimes, this bill also includes other very important provisions, such as authorizing criminal forfeiture and pretrial detention for Federal sex offenders. The bill also increases the maximum prison sentence from 10 to 15 years for transporting a minor in interstate commerce for prostitution or sexual activity and requires the U.S. Sentencing Commission to review and amend the sentencing guidelines to increase the penalties for a number of Federal sex offenses against children.

This bill doubles prison sentences for abusive sexual contact if the victim is under the age of 12 and doubles the maximum prison sentence available for second-time sex offenders.

H.R. 3494 gives law enforcement the tools it needs to track down pedophiles, kidnappers and serial killers. The bill allows for administrative subpoenas in certain child exploitation investigations and provides for the immediate commencement of Federal investigations in kidnapping cases.

The bill also allows for the Federal investigation of serial murder offenses when such an investigation is requested by a State or local law enforcement agency with jurisdiction over the offense.

Mr. Speaker, this is a substantive bill that the subcommittee has worked very hard to put together. It is the most comprehensive package of new crimes and increased penalties we have ever developed in response to this horrible problem.

It is a bipartisan effort. It is supported by the administration. Moreover, this bill received a great amount of input from several Members of Congress, Federal, State and local law enforcement, child advocacy groups and victims' parents. Were it not for their invaluable assistance, I would not be proposing this essential package of legislation today.

Mr. Speaker, the chairman, the gentleman from Florida (Mr. MCCOLLUM), could not be here today, but I know he is very pleased that this legislation has received such overwhelming support by the House and Senate and that if it passes today it will go to the President for signature.

This is an important bill, and I urge my colleagues to support it.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the gentleman from Michigan (Mr. CONYERS), who cannot be with us at this time, I rise in support of this timely, much-needed piece of legislation.

H.R. 3494 is a comprehensive response to the horrifying menace of sex crimes against children, particularly assaults facilitated by computers. While there are currently no estimates as to the number of children victimized in cyberspace, the rate at which Federal, State and local law enforcement are confronted with these types of cases is growing at a rapid rate.

The Child Protection and Sexual Predator Punishment Act seeks to address the challenges posed by the new computer age to these challenges by providing law enforcement with the tools it needs to investigate and bring to justice those individuals who prey on our Nation's children.

□ 1430

The legislation makes a number of important changes, principally by targeting pedophiles who stalk children on the Internet and by cracking down on pedophiles who use and distribute child pornography to lure children into sexual encounters.

This legislation passed the House unanimously last June. However, the Senate made several significant changes to that bill. Many of these changes are worthwhile. For example, this version of the bill contains no mandatory minimum sentences. Although none of us support the type of conduct covered by the bill, it is not productive to tie judges' hands with one-size-fits-all mandatory minimum sentences.

The original House bill was also too broad in that it made it a crime to contact or attempt to contact a minor. This was so broad that it would have covered a simple "hello" in an Internet chat room. Targeting attempts to make contact is like prosecuting a thought crime.

Another overbroad provision in the original House bill would have prohibited transmittal of identifying information about any person under 18 for the purpose of encouraging unlawful sexual activity. This would have had the absurd result of prohibiting a person under the age of 18 from e-mailing her own address or telephone number to her boyfriend. The Senate fixed this problem by making it clear that a violation must involve someone else's identifying information.

Another problematic provision in the original House bill gives the Attorney General sweeping authority to subpoena records and witnesses in investigations involving crimes against children. We need to be extremely careful before we further extend the Justice Department's administrative subpoena authority. This gives Federal agents the power to compel disclosures without any oversight by a Federal judge.

I am also pleased to announce that we have reached accommodation on new reporting requirements for Internet service providers. Under the bill, Internet service providers have a duty to make a report to law enforcement authorities when they obtain knowledge of a material from which a violation of the Federal child pornography laws is apparent. I believe this is stricter than the probable cause standard which has also been proposed and will reduce incentives for over-reporting. This standard is acceptable to providers such as America On Line.

The principal concern that I believe the gentleman from Michigan (Mr. CONYERS) and other Members have, and so do I, with the revised bill, is that it excludes language from the Violence against Women Act II bill that the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. SCHUMER) introduced this year and which the House added unanimously. Although the Senate was not ready to

expand the rights of women who are subject to horrible abuse, we will continue to fight for them in the future until this bill becomes law.

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

Mr. HUTCHINSON. Mr. Speaker, I yield three minutes to the distinguished gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I thank my friend from Arkansas for yielding me time.

Mr. Speaker, I am pleased to be here in support of what is very, very important legislation, legislation that is intended to protect children from those who would prey on them using the latest technology. The Child Protection and Sexual Predator Punishment Act is important legislation that has earned bipartisan support, deserves bipartisan support, and I hope will be signed into law by the President soon.

I particularly want to thank the gentleman from Florida (Chairman MCCOLLUM), who is, unfortunately, not with us here today, for his leadership and help on this legislation, as well as Members of the committee for their bipartisan efforts in getting this important legislation through the House, through the Senate and now ready to send to the President.

I would like to speak briefly on a provision I sought to have included in this legislation as a response to an unfortunate incident that occurred in the 11th Congressional District of Illinois in the south suburbs.

In the summer of 1977, the Boehle family in Joliet, Illinois, began receiving telephone calls at all hours of the day and night, strange men asking for their nine year old daughter by name. Now, imagine that. Imagine if you are a parent with a little girl under the age of 10, and at all hours of the day and night strange men are calling asking specifically for your little girl, your daughter, by name.

As a result of that, the family looked into why they were trying to get phone calls, and they discovered that somebody had posted messages on the Internet posing as their nine year old little girl. The messages implied that she was having sex with her father, that she wanted to have sex with other grown men, and that she had photos for sale.

These messages were posted on message boards targeted to pedophiles, and they included her full name, home phone number and her hometown. As a result of these messages, they began receiving these disturbing telephone calls for their nine year old little girl at all hours of the day and night.

When Mrs. Boehle read with horror the messages that were posted about her daughter, she called the police, and they told her that nothing could be done, that there was no law against this type of action.

She contacted the FBI, and they worked for three weeks to try and find a statute, a law, they could use to prosecute the perpetrator, and they came up empty.

The police advised the Boehle family to move, which they did. While they knew that nothing could be done legally, they knew that any pedophile that read these messages could find their home and find their daughter. Due to this grave danger, they sold their home, uprooted their lives, left their church and schools and moved out of their community.

At this time Mrs. Boehle contacted me seeking help. As a result of working in response to Mrs. Boehle's leadership and with the help of local, state and Federal law enforcement, I introduced H.R. 2815, the Protecting Children from Internet Predators Act. I want to thank the gentleman from Florida (Chairman MCCOLLUM) for including this important piece of legislation as an amendment to H.R. 3494. This provision will make it illegal to use the Internet to transmit the name, telephone number or other identifying information of a child.

Mr. Speaker, we need to do everything we can to ensure that the wierdos, the whackos, the slimeballs, those who would use the latest technology to prey on children and their families, are stopped. I applaud the work of the Committee on the Judiciary and applaud the work of the House and ask unanimous support for this legislation.

[From the Herald News, Apr. 19, 1998]

FREE SPEECH, CHILD SAFETY AT ODDS

(By Dori Meinert)

WASHINGTON.—You say your 10-year-old daughter needs to do a little research for a school paper on the government?

If she logs on to an innocuous looking address that includes the word "whitehouse," you'll both be in for a surprise.

Instead of information about the president, she'll see a scantily clad woman lying on an American flag. The Web site boasts that it's "one of the most controversial and erotic Web sites in the world."

Such sites are noted by some in Congress to argue in support of federal regulation of the Internet, which some 62 million Americans now are using.

How can society protect both free speech and children in cyberspace?

That's the problem that faces members of Congress this spring as they sort through several bills introduced since the Supreme Court last year overturned the Communications Decency Act, which would have banned the dissemination to minors any material that is "indecent" or "patently offensive."

Given the huge constitutional issues involved and the shortened congressional work schedule this year, it's unclear whether any of these bills will be enacted before Congress adjourns this fall.

However, if any of the more than 50 Internet-related bills stand a chance of passage in this election year, it would be those that aim to protect children, observers say.

CONGRESS IN QUANDARY

"Congress is in a quandary," said Jeff Chester, executive director of the Center for Media Education, which advocates Internet regulation to protect children. The various bills set different age limits for "minors," ranging from age 16 to 18.

"Clearly, we need to put some laws in place to protect some children and youth who are online. The goal is to strike a balance that nurtures the First Amendment potential of the Internet, but at the same time safeguards our privacy," Chester said.

On Thursday, the House crime subcommittee is scheduled to hold a hearing on proposals for protecting kids from cyberpredators.

Among those expected to testify are Deborah Boehle of Kane County, whose family has filed a $3 million civil suit against a former neighbor in Joliet for allegedly posting their 9-year-old daughter's name and phone number on 14 Internet newsgroups with messages indicating she was available for sex.

The family says it was forced to move from their Joliet home out of fear that a pedophile would show up on their doorstep.

Rep. Jerry Weller, R–Morris, and Sen. Carol Moseley-Braun, D–Ill., have proposed legislation attempting to punish those who solicit children for criminal acts over the Internet.

Moseley-Braun, who is expected to introduce her bill next week, has been working with the American Civil Liberties Union (ACLU) to craft a narrowly tailored version that could survive a court challenge.

PREDATORS LOOM

A growing concern for law-enforcement agencies are predators who lure children into on-line "chat rooms" and eventually to real-life meetings.

Rep. Bill McCollum, R–Fla., who chairs the House crime subcommittee, has proposed legislation that would prohibit contacting a minor over the Internet for the purposes of engaging in illegal sexual activity and knowingly transferring obscene materials to a minor over the Internet.

Next month, the Senate may hold a "high-tech" week devoted to several Internet-related bills, including those aimed at protecting children.

Senate Commerce Committee Chairman John McCain, R–Ariz., has been discussing that possibility with Senate Majority Leader Trent Lott, R–Miss., McCain's aide said.

One proposal likely to come up for a floor vote that week is McCain's bill that would require public schools and libraries to use special "filtering" technology to keep children from gaining access to pornographic materials on the Internet. The Commerce Committee approved the bill last month.

The Senate also may take up a bill introduced by Sen. Dan Coats, R–Ind., that would ban commercial distribution over the Web of materials considered "harmful to minors."

Coat's bill presents the same constitutional problems as its predecessor, the Communications Decency Act, which was overturned by the Supreme Court last June, said ACLU Washington staff counsel Cassidy Sehgal.

Yet, "Everyone says that if they vote against an anti-pornography bill in an election year, it would be politically devastating," Sehgal said.

The nation's high court said the Communications Decency Act, which was aimed at protecting children, was so broad that it would have restricted adult conversations. The justices ruled that the Internet is entitled to the broadest free-speech protections.

FILTERING TECHNOLOGY

McCain's bill requiring special technology to filter out pornography at schools and libraries would place an added financial burden on poorer communities, which then may

not be able to afford Internet access, Sehgal said.

The ACLU argues that such filtering software—which could cost an initial $8,000 and $3,000 a year to be maintained—is tantamount to "removing books from the shelves" of the Internet that have value to adults and children alike. The ACLU has had some initial victories in the filtering battle in the lower courts.

The Washington-based Electronic Privacy Information Center tested some filtering software and found it blocked access to almost 90 percent of Internet sites that mentioned common phrases such as "American Red Cross," "Bill of Rights," and "Smithsonian Institution."

The Clinton administration and many in Congress are reluctant to restrict the burgeoning information technology industry, preferring instead to encourage voluntary self-monitoring.

"The Internet is Aladdin's lamp," Chester said. "Rub it the right way and it will transform the American economy and the political system and enrich us all. On the other hand, that genie out of the bottle is likely to be an insidious monster robbing us of privacy."

[From the Courier News, Mar. 18, 1998]

INTERNET ABUSE SHOWS NEED FOR SPEECH LIMITS

(By Deborah Boehle)

What would you do if you discovered that your 9-year old daughter's name and phone number had been posted by someone on 14 Internet newsgroups, along with messages that were invitations to pedophiles to call her 24 hours a day?

When this happened to us last August, we called the police, but it was like a slap in the face to be told that little could be done. I couldn't believe that this was not illegal, so I called the state police, the FBI, the state's attorney, the attorney general and many more government offices.

In fact, I was on the phone all day. Person after person told me that this was not against the law. After all, when the Supreme Court struck down the Communications Decency Act only two months earlier, they had reinforced the right of Americans to say anything on the Internet.

Our life had been turned upside-down. A part of our daughter's childhood had been stolen from her. She was now fearful of things that she should not even know exists, and everybody kept talking about the other guy's rights. We're not even talking about criminals' right here, because this person had not committed a crime. Why is there not a law to protect my daughter's rights and her well-being?

By using a reverse directory on the Internet, any pedophile could have our complete address within seconds. With only one more click of the mouse, a pedophile could even have a map of our neighborhood. Was there a pedophile out there crazy enough to come looking for our neighborhood? Those messages clearly stated that she wanted to have sex with grown men, and the messages even promised pornographic pictures.

The police advised us to move—to leave our neighborhood, our town, our friends, our church and our children's school. Although we could not afford to do so, we felt that no price was too high to pay for our daughter's safety.

Since moving to our new home, I have been working to get legislation passed that would make it illegal for anyone to put personal information on the Internet that could be used to target a child for sexual contact. U.S. Rep. Jerry Weller, R–Morris, introduced legislation in the U.S. House last November, but it will not be an easy task to get this legislation passed.

Our first nemesis is right here in Illinois: U.S. Sen. Richard Durbin. According to staffers Joel Wiggington in the Washington, D.C., office and Adrienne Jones in the Chicago office, Durbin refuses to support any legislation such as this because he believes it is unconstitutional. There is a price we pay for democracy, but giving citizens unlimited free speech at the expense of children's lives is too high a price.

As a reporter myself, I am very protective of my First Amendment rights, but no one needs to have the right to endanger children's lives. The Constitution was written to protect the citizens of this country, not to put us at risk. When the writers of the Constitution said we had a right to bear arms, they were talking about a musket, not a fully automatic rifle. They said we had a right to express ourselves freely so that we could voice our opinion in a newspaper column and not be tarred and feathered. They could not have even imagined that someday there would be a medium such as the Internet that would allow citizens to write something that could endanger a child's life and that it could be read by millions.

Durbin clearly sees that there are limits to the Fourth Amendment because there is no reason that a law-abiding citizen would need to purchase a fully automatic rifle to go duck hunting. And there are limits to the First Amendment. While pornography is not illegal, child pornography is. It is illegal to shout fire in a crowded theater because it is dangerous. Certainly, it should be illegal to write something on the Internet that can endanger a child's life or well-being. We don't need any more laws named after dead little girls. Let us pass a law now.

Mr. HUTCHINSON. Mr. Speaker, I yield three minutes to the gentleman from New Jersey (Mr. FRANKS).

Mr. FRANKS of New Jersey. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as cochair of the Missing and Exploited Children's Caucus, I wanted to congratulate the gentleman from Florida (Chairman MCCOLLUM), the gentleman from Illinois (Chairman HYDE) and the members of the Committee on the Judiciary for their excellent work on this bill.

I rise to briefly turn my colleagues' attention to two of its important provision. But first I want to share with you a tragic incident which was covered in depth this morning on NBC's Today Show.

Twenty-five years ago, seven year old Joan D'Alessandro left her home in Hillsdale, New Jersey, to deliver Girl Scout cookies to a neighbor. Three days later, that neighbor, a 26 year old schoolteacher, confessed to sexually molesting and then murdering little Joan.

But for the D'Alessandro family, the nightmare had just begun. For the past 12 years, they have had to live with the very real prospect that one day soon their daughter's killer would be set free. Rosemarie D'Alessandro, Joan's mother, has been fighting this terrible injustice. She has been the driving force behind a provision in this bill that would mandate a sentence of no less than life imprisonment with no opportunity for early release for anyone who commits a serious violent felony which results in the death of a child.

Thanks to this bill, no family will ever have to endure the double tragedy of losing a child to an act of violence and then seeing their child's killer walk out of prison a free man.

Another important provision of this bill addresses a new and growing threat to our children, child exploitation in cyberspace. It would require the providers of Internet services to report evidence of child pornography to law enforcement authorities. Importantly, Internet service providers would be protected from criminal or civil liability if they acted in good faith to assist in the effort to prosecute peddlers of kiddie porn. The requirement now in this bill is similar to the one that we already impose on photo development labs when they discover evidence of child exploitation. With this provision, law enforcement will have a powerful new tool in combating child pornography in cyberspace.

I strongly support these measures, as well as the rest of the underlying bill, and urge my colleagues to join me in sending it to the President.

Mr. HUTCHINSON. Mr. Speaker, I yield two minutes to the other gentleman from New Jersey (Mr. PAPPAS).

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

Mr. Speaker, I rise in strong support of H.R. 3494, the Child Protection Sexual Predator Punishment act. I am a cosponsor of this legislation and I am glad we will be able to send this bill to the President for his signature so we can better protect children from sexual predators.

Mr. Speaker, the Internet offers a wonderful way to expand the knowledge and creativity of our nation's children. This bill is an important investment by furthering Internet technologies that keep our families safe. With more young people using the Internet every day, this is very timely.

Moreover, I too am from a state, the State of New Jersey, which has seen its unfortunate share of sexual predators praying upon young children. Megan Kanka and Amanda Wengart are two victims of tragic situations where child predators have caused devastating harm to families and communities.

I have met with Karen Wengart, Amanda's mother, and her hard work to close loopholes on both the state and Federal levels has inspired me to do more in my role as a Federal official.

This bill will toughen the laws on those who molest children, those who traffic in child pornography, and those who try to entrap unsuspecting children and urges governors, legislators,

and prison administrators to prohibit unsupervised access to the Internet by state prisoners. It is a good step in furthering our bipartisan efforts to stop child pornography.

I commend the gentleman from Florida (Mr. MCCOLLUM) for listening to the concerns of people like me who want this Congress to do more to end pain to families such as those we have mentioned when our children are killed or are the victims of sex crimes.

I urge all Members support this bill.

Mr. HUTCHINSON. Mr. Speaker, I yield three minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, I rise today for mothers and dads all over this country who are doing everything they can to keep their children safe and innocent but may not be aware of the pedophiles who break into our homes by cruising the Internet.

In this age of ever-expanding technology and personal computers in so many homes, pedophiles are increasingly using the anonymity of the Internet to pose as minors and befriend children who are unknowingly lured into dangerous situations.

With both Megan's Law and the Jacob Wetterling Crimes Against Children Act, we told sexual offenders you can run, but you can't hide. These laws have given neighborhoods a greater sense of security by informing them when a sexual predator might be living in their midst.

But what about cyber-predators? They may live anywhere; in our neighborhood, in another state, across the country, and yet they still have access to our children. These predators think that they can hide behind the faceless, voiceless world of the Internet. Make no mistake, they are wrong.

That is why the McCollum-Dunn bill is so critical to families across America. This legislation helps law enforcement crack down on pedophiles who no longer offer candy to unsuspecting children on the playground, but now offer companionship to children through an Internet chat room.

This bill tells sexual predators that the information superhighway is not a detour for deviant behavior. We will not stop until we enable every mother and father to feel secure that their children are safe from violence, at school, at home and in the neighborhood.

McCollum-Dunn will ensure that cyber-predators become real live prisoners by providing law enforcement with the tools it needs to bring to justice those who would prey on our children. By allowing the immediate commencement of Federal investigations in kidnapping cases, the FBI can begin investigating a missing person's report without waiting for 24 hours.

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When an abducted child is not found in the first 24 hours, it becomes far more difficult to find that child at all.

By clarifying this rule, this bill offers parents greater peace of mind that their child will be found quickly and that he will not be frustrated by the inaction of law enforcement.

Additionally, McCollum-Dunn metes out harsher penalties for sexual predators. By doubling maximum prison sentences and tightening child pornography statutes, this bill cracks down on criminals who would use legal loopholes to escape punishment.

Mr. Speaker, I believe this is the most important legislation to protect children and give parents peace of mind of any law since Megan's Law, which stemmed from Washington State after the tragic death of my friend, Diane Ballasiotes. As a mother and as a legislator, I understand what the protections in this legislation mean to parents all over the country, and I urge my colleagues to support this bill.

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

Mr. HUTCHINSON. Mr. Speaker, let me acknowledge the leadership of the gentlewoman from Washington on this issue.

Mr. RILEY. Mr. Speaker, I rise today in support of H.R. 3494, the Child Protection and Sexual Predator Punishment Act of 1998. I would also like to commend the gentleman from Florida for introducing this important legislation and agreeing to include my legislation, H.R. 3185, the Abolishing Child Pornography Act, as a portion of this bill.

In my view, this bill will go a long way to protect our children from those who choose to stalk them as their prey.

No longer will it be legal for anyone to use the Internet to contact a child for sexual purposes.

No longer will prisoners in our jails be allowed unrestricted and unsupervised access to the Internet so they can continue to victimize our children.

No longer will anyone be allowed to possess any amount of child pornography for any reason.

And, no longer will it be difficult to prosecute these crimes nor will the penalties be light.

Mr. Speaker, this bill sends a very clear and very strong message to these sexual predators: Whether it is over the Internet or on the playground, stay away from our children or pay the price.

I urge my colleagues in the House to vote in favor of H.R. 3494—our children deserve nothing less.

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 3494, the Protection of Children From Sexual Predators Act of 1998, as introduced by Representative MCCOLLUM.

This bill amends the Federal Criminal Code to prohibit and penalize any individual using the mail or Internet to transmit the name, phone number, address, or electronic mail address of a person under the age of 16, with the intent of enticing, offering, soliciting or encouraging illegal sexual activity.

The Internet, although a remarkable source of information and knowledge, makes it all too easy for pedophiles to illegally contact our children and engage in inappropriate communication and contact with them.

H.R. 3494 provides prosecution for those individuals producing child pornography if the visual portrayal was produced with materials mailed, shipped or transported by interstate or foreign commerce—including via the Internet. This bill also prohibits using the mail or Internet to knowingly transfer obscene matter to another individual known to be under the age of 16.

The Protection of Children From Predators Act recognizes the extremely serious nature of child pornography and abuse, and imposes harsh penalties on pedophiles. Some of the provisions of this bill would double the maximum term of imprisonment for abusive sexual contact with children under age 12. Additionally, H.R. 3494 provides pre-trial detention of those who commit specified Federal sex offenses involving transportation of a minor for illegal sexual activity. It also sets fines for initial and subsequent failures by computer service providers to report violations of specified offenses involving child pornography.

Children should not be cheated of the benefits of learning that the Internet offers them, because of the existence of pedophiles on the Internet. Parents and teachers should not be fearful that when a child logs on to his or her computer, that they will be the victim of a child predator.

H.R. 3494 is a strong step towards fighting child pornography and abuse, and institutes much-needed precautions and penalties to ensure the safety of our children. I know that my colleagues will join me in supporting this worthwhile legislation.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Arkansas (Mr. HUTCHINSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3494.

The question was taken.

Mr. HASTINGS of Florida. 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 I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CODIFYING LAWS RELATED TO PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES AND ORGANIZATIONS

Mr. HUTCHINSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2524) to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States code.

The Clerk read as follows:

S. 2524

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

SECTION 1. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In section 902, strike subsections (b) and (c) and substitute the following:

"(b) REQUIRED DISPLAY.—The POW/MIA flag shall be displayed at the locations specified in subsection (d) of this section on POW/MIA flag display days. The display serves—

"(1) as the symbol of the Nation's concern and commitment to achieving the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for; and

"(2) as the symbol of the Nation's commitment to achieving the fullest possible accounting for Americans who in the future may become prisoners of war, missing in action, or otherwise unaccounted for as a result of hostile action.

"(c) DAYS FOR FLAG DISPLAY.—(1) For purposes of this section, POW/MIA flag display days are the following:

"(A) Armed Forces Day, the third Saturday in May.

"(B) Memorial Day, the last Monday in May.

"(C) Flag Day, June 14.

"(D) Independence Day, July 4.

"(E) National POW/MIA Recognition Day.

"(F) Veterans Day, November 11.

"(2) In addition to the days specified in paragraph (1) of this subsection, POW/MIA flag display days include—

"(A) in the case of display at medical centers of the Department of Veterans Affairs (required by subsection (d)(7) of this section), any day on which the flag of the United States is displayed; and

"(B) in the case of display at United States Postal Service post offices (required by subsection (d)(8) of this section), the last business day before a day specified in paragraph (1) that in any year is not itself a business day.

"(d) LOCATIONS FOR FLAG DISPLAY.—The locations for the display of the POW/MIA flag under subsection (b) of this section are the following:

"(1) The Capitol.

"(2) The White House.

"(3) The Korean War Veterans Memorial and the Vietnam Veterans Memorial.

"(4) Each national cemetery.

"(5) The buildings containing the official office of—

"(A) the Secretary of State;

"(B) the Secretary of Defense;

"(C) the Secretary of Veterans Affairs; and

"(D) the Director of the Selective Service System.

"(6) Each major military installation, as designated by the Secretary of Defense.

"(7) Each medical center of the Department of Veterans Affairs.

"(8) Each United States Postal Service post office.

"(e) COORDINATION WITH OTHER DISPLAY REQUIREMENT.—Display of the POW/MIA flag at the Capitol pursuant to subsection (d)(1) of this section is in addition to the display of that flag in the Rotunda of the Capitol pursuant to Senate Concurrent Resolution 5 of the 101st Congress, agreed to on February 22, 1989 (103 Stat. 2533).

"(f) DISPLAY TO BE IN A MANNER VISIBLE TO THE PUBLIC.—Display of the POW/MIA flag pursuant to this section shall be in a manner designed to ensure visibility to the public.

"(g) LIMITATION.—This section may not be construed or applied so as to require any employee to report to work solely for the purpose of providing for the display of the POW/MIA flag.".

(2) In section 2102(b), strike "designated personnel" and substitute "personnel made available to the Commission".

(3) In section 2501(2), insert "solicit," before "accept,".

(4)(A) Insert after chapter 201 the following:

"CHAPTER 202—AIR FORCE SERGEANTS ASSOCIATION

"Sec.
"20201. Definition.
"20202. Organization.
"20203. Purposes.
"20204. Membership.
"20205. Governing body.
"20206. Powers.
"20207. Restrictions.
"20208. Duty to maintain corporate and tax-exempt status.
"20209. Records and inspection.
"20210. Service of process.
"20211. Liability for acts of officers and agents.
"20212. Annual report.

"§ 20201. Definition

"For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 20202. Organization

"(a) FEDERAL CHARTER.—Air Force Sergeants Association (in this chapter, the 'corporation'), a nonprofit corporation incorporated in the District of Columbia, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 20203. Purposes

"(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

"(1) helping to maintain a highly dedicated and professional corps of enlisted personnel within the United States Air Force, including the United States Air Force Reserve, and the Air National Guard;

"(2) supporting fair and equitable legislation and Department of the Air Force policies and influencing by lawful means departmental plans, programs, policies, and legislative proposals that affect enlisted personnel of the Regular Air Force, the Air Force Reserve, and the Air National Guard, its retirees, and other veterans of enlisted service in the Air Force;

"(3) actively publicizing the roles of enlisted personnel in the United States Air Force;

"(4) participating in civil and military activities, youth programs, and fundraising campaigns that benefit the United States Air Force;

"(5) providing for the mutual welfare of members of the corporation and their families;

"(6) assisting in recruiting for the United States Air Force;

"(7) assembling together for social activities;

"(8) maintaining an adequate Air Force for our beloved country;

"(9) fostering among the members of the corporation a devotion to fellow airmen; and

"(10) serving the United States and the United States Air Force loyally, and doing all else necessary to uphold and defend the Constitution of the United States.

"(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of the District of Columbia.

"§ 20204. Membership

"(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

"(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

§ "20205. Governing body

"(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

"(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

"(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 20206. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 20207. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

"(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 20208. Duty to maintain corporate and tax-exempt status

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the District of Columbia.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 20209. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote.

"(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 20210. Service of process

"The corporation shall comply with the law on service of process of each State in

which it is incorporated and each State in which it carries on activities.

"§ 20211. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 20212. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 201:

"202. AIR FORCE SERGEANTS ASSOCIATION ..... 20201".

(5)(A) Insert after chapter 209 the following:

"CHAPTER 210—AMERICAN GI FORUM OF THE UNITED STATES

"Sec.
"21001. Definition.
"21002. Organization.
"21003. Purposes.
"21004. Membership.
"21005. Governing body.
"21006. Powers.
"21007. Restrictions.
"21008. Duty to maintain corporate and tax-exempt status.
"21009. Records and inspection.
"21010. Service of process.
"21011. Liability for acts of officers and agents.
"21012. Annual report.

"§ 21001. Definition

"For purposes of this chapter, 'State' includes the District of Columbia and the territories and possessions of the United States.

"§ 21002. Organization

"(a) FEDERAL CHARTER.—American GI Forum of the United States (in this chapter, the 'corporation'), a nonprofit corporation incorporated in Texas, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

"§ 21003. Purposes

"(a) GENERAL.—The purposes of the corporation are as provided in its bylaws and articles of incorporation and include—

"(1) securing the blessing of American democracy at every level of local, State, and national life for all United States citizens;

"(2) upholding and defending the Constitution and the United States flag;

"(3) fostering and perpetuating the principles of American democracy based on religious and political freedom for the individual and equal opportunity for all;

"(4) fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin;

"(5) encouraging greater participation of the ethnic minority represented by the corporation in the policy-making and administrative activities of all departments, agencies, and other governmental units of local and State governments and the United States Government;

"(6) combating all practices of a prejudicial or discriminatory nature in local, State, or national life which curtail, hinder, or deny to any United States citizen an equal opportunity to develop full potential as an individual; and

"(7) fostering and promoting the broader knowledge and appreciation by all United States citizens of their cultural heritage and language.

"(b) CORPORATE FUNCTION.—The corporation shall function as an educational, patriotic, civic, historical, and research organization under the laws of Texas.

"§ 21004. Membership

"(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws and articles of incorporation.

"(b) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21005. Governing body

"(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the bylaws and articles of incorporation.

"(b) OFFICERS.—The officers and the election of officers are as provided in the bylaws and articles of incorporation.

"(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, or national origin.

"§ 21006. Powers

"The corporation has only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 21007. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or employee or reimbursement for actual necessary expenses in amounts approved by the board of directors.

"(c) LOANS.—The corporation may not make a loan to a director, officer, employee, or member.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

"§ 21008. Duty to maintain corporate and tax-exempt status

"(a) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of Texas.

"(b) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

"§ 21009. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote.

"(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 21010. Service of process

"The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

"§ 21011. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 21012. Annual report

"The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report may not be printed as a public document.".

(B) In the table of chapters at the beginning of subtitle II, insert after the item related to chapter 209:

"210. AMERICAN GI FORUM OF THE UNITED STATES ..... 21001".

(6) In section 21703(1)(A)(iv), strike "December 22, 1961" and substitute "February 28, 1961".

(7) In section 70103(b), strike "the State of".

(8) In section 151303, subsections (f) and (g) are amended to read as follows:

"(f) STATUS.—Appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States.

"(g) COMPENSATION.—Members of the board serve without compensation.

"(h) LIABILITY.—Members of the board are not personally liable, except for gross negligence.".

(9) In section 151305(b), strike "the State of".

(10) In section 152903(8), strike "Corporation" and substitute "corporation".

SEC. 2. TECHNICAL AMENDMENTS TO OTHER LAWS.

(a) The provisos in the paragraph under the heading "AMERICAN BATTLE MONUMENTS COMMISSION" in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Public Law 105–65, Oct. 27, 1997, 111 Stat. 1368, 36 App. U.S.C. 121b, 122, and 122a) are repealed.

(b) Paragraph (3) of section 198(s) of the National and Community Service Act of 1990 (42 U.S.C. 12653(s)(3)) is repealed.

(c) Effective August 12, 1998, Public Law 105–225 (Aug. 12, 1998, 112 Stat. 1253) is amended as follows:

(1) Section 4(b) is amended by striking "2320(d)" and substituting "2320(e)".

(2) Section 7(a), and the amendment made by section 7(a), are repealed.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1(8) of this Act shall take effect as if included in the provisions of Public Law 105–225, as of the date of enactment of Public Law 105–225.

SEC. 4. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) NO SUBSTANTIVE CHANGE.—(1) Section 1 of this Act restates, without substantive change, laws enacted before September 5, 1998, that were replaced by section 1. Section 1 may not be construed as making a substantive change in the laws replaced.

(2) Laws enacted after September 4, 1998, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a heading of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 5. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

SCHEDULE OF LAWS REPEALED

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large Volume	Statutes at Large Page	U.S. Code Title	U.S. Code Section
1997						
Nov. 18	105–85	1082, 1501–1516	111	1917, 1963	36 App.	189a, 1101, 5801–5815
Nov. 20	105–110		111	2270	36 App.	45
1998						
Aug. 7	105–220	413	112	1241	36 App.	155b
Aug. 13	105–231	1–16	112	1530	36 App.	1101, 5901–5915

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Florida (Mr. HASTINGS) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. HUTCHINSON).

GENERAL LEAVE

Mr. HUTCHINSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2524 is a bill prepared by the Office of Law Revision Counsel. It makes purely technical and nonsubstantive changes in title 36 of the United States Code dealing with patriotic organizations.

Mr. Speaker, S. 2524 codifies in title 36, United States Code, certain laws related to patriotic and national observances, ceremonies, and organizations that were enacted after the cut-off date for the title 36 codification recently enacted as by Public Law 105–225, S. 2524 also makes technical corrections in title 36 and repels obsolete and unnecessary provisions. S. 2425 is identical to H.R. 4529 introduced by Chairman HYDE on September 9, 1998.

This bill was prepared by the Office of the Law Revision Counsel of the House of Representatives under its statutory mandate (2 U.S.C. 285B) To prepare and submit periodically revisions of positive law titles of the code to keep those title current.

The Law Revision Counsel assures me that S. 2524 makes no change in existing law. Therefore, no additional cost to the Government would be incurred as a result of enactment of S. 2524.

Enactment of S. 2524 would not affect direct spending or receipts, Therefore, pay-as-you-go procedures would not apply.

I urge my colleagues to support S. 2524.

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

Mr. HASTINGS of Florida. Mr. Speaker, the minority is in concurrence with this particular measure, and at this time we are prepared to agree.

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 Arkansas (Mr. HUTCHINSON) that the House suspend the rules and pass the Senate bill, S. 2524.

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.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1999

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1999, and for other purposes; and that it be in order at any time to consider the joint resolution in the House; and that the joint resolution be considered as having been read for amendment; and that the joint resolution be debatable for not to exceed 60 minutes, to be equally divided and controlled by myself and the gentleman from Wisconsin (Mr. OBEY); that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

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

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H.J. Res. 134) making further continuing appropriations for the fiscal year 1999, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the joint resolution, as follows:

H.J. RES. 134

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 106(c) of Public Law 105–240 is further amended by striking "October 12, 1998" and inserting in lieu thereof "October 14, 1998".

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. LIVINGSTON).

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 134, and that I may

include tabular and extraneous material.

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

There was no objection.

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

Mr. Speaker, the second continuing resolution for fiscal year 1999 expires tonight at midnight. We have not yet completed our negotiations on our wrap-up appropriations bill, but we are almost there, I hope, and we will need another day or two to complete our work and get it to the floor. An extension of a further continuing resolution is needed in order to do that, and so adoption of H.J. Res. 134, which runs through October 14, will give us time to complete our remaining work.

Mr. Speaker, I do wish that we did not have to bring this joint resolution to the floor and that all Members could have by now gone home to campaign for reelection, but we need more time, and we are just not there yet. I do not think we need to debate this issue extensively or take a lot of time today. We know what the issues are. We know that we need to take this action in order to keep the government open. It is our intention to keep government open and not to jeopardize the livelihoods of all of the Federal employees or the services that they perform. So adoption of this continuing resolution will give us the time needed to complete our work and keep the government running.

Mr. Speaker, I urge adoption of the joint resolution.

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

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, as my colleagues know, as a lot of people in this building know, since the end of the fiscal year, those on the Committee on Appropriations, most especially the gentleman from Louisiana (Mr. LIVINGSTON) and myself, have been locked in meeting after meeting after meeting, trying to resolve the literally hundreds of items that still must be resolved before we can finish this congressional session.

I must say that while the gentleman from Louisiana and I are very good friends personally, I am getting about as sick of him as he probably is of me. In fact, I think we have spent more time in the last week with each other than we have with our wives. That shows us how much bad judgment both of us have.

But, having said that, I would simply say that I think we have been making considerable progress on a number of items, and I think as that progress comes forth that the atmosphere in the room has turned from the initial atmosphere of confrontation and distemper on occasion to one of more friendliness. We have been making some progress.

But I do want to say I think we need to have an honest understanding of why we are in this position. I feel myself incredibly lucky to be a member of this body. Every day when I wake up I have to pinch myself to make certain that it is really true that I have been accorded the privilege of representing not only the people of my district in this institution but, on cases like this, representing my party with the gentleman from Louisiana (Mr. LIVINGSTON) representing his in these negotiations.

I have tremendous love for this institution and tremendous respect for the appropriations process. But I think that there have been some things said about why we are here which are really not accurate or fair.

A number of high-ranking members of this House have indicated when they talk to the television cameras that the reason we are here at the end of the year with the appropriation bills still not being signed into law is somehow because the President has not been sufficiently engaged in these discussions; and yet, those comments are directly at variance with what is being said behind closed doors in the meetings that I am participating in to try to end this impasse.

Because behind closed doors in those budget negotiations, we are being told by people who I respect that the President, really, and his representatives should not really be at the table at all, that this should simply be a congressional process, and that the Congress ought to take whatever action it is going to take, and then, if the White House does not like it, it should veto that.

And I would say that at least with some parties, most certainly not the gentleman from Louisiana, on the part of some parties in the conference, the assistance that we have been given by the White House staff in this process has been accepted most grudgingly and I think sometimes with a great deal of resentment on the part of certain Members of Congress.

Now, it would be nice to say, and I would say I agree that, institutionally, the best way for us to proceed is for us to produce our appropriation bills and send them up to the White House, and if the White House does not like them, then they have a right to veto them. But it is rather easier to take that institutional position in July than it is at the end of September, the beginning of October when we are at the end of the road and need to get things done. Then we have no choice but to have the White House representatives in the room, because they, after all, have to agree to a significant amount of what we do, or there would not be agreement.

I think we have to look at why we have gotten in this position. We have gotten to this position, in my view, because of the forces largely outside of the appropriations process. To start with, the House leadership scheduled far fewer days of session than at any time in my memory. That was followed up by a complete lack of action on the part of the Committee on the Budget. We still do not have a budget for the United States Government. The Committee on the Budget still has not produced a budget conference; and, because of that delay, the appropriations process was put hopelessly behind. We were supposed to have our appropriation bills done by July, and yet, because of the delay in the budget process itself, our committee was not even allowed to come to the floor with many of these bills in July, bills that normally would have come to the floor in mid-April or early May.

That was compounded by the mistake that—out of all of the years, this was the worst possible year to do this—that was compounded in my view by the mistake of having double the length of time that is normally taken for the July 4th recess. And, as a consequence, if one walks into the appropriations room and looks at the calendar and sees how many days were left for the Committee on Appropriations to do its business, the answer is, only a handful of days between the July 4th recess until we again recessed for some five full weeks in August.

As a result, we were dealing with conference reports between the two Houses on appropriation bills in early October that we should have been able to deal with in early September.

Now that is not the fault of the Committee on Appropriations. It is not the fault of the chairman of the committee. It is not the fault of any of the appropriation subcommittees. It is simply a fact of life. And I am going through this simply to make the point that the President had nothing whatsoever to do with any of this problem. This is a problem that Congress as an institution has brought upon itself by its failure to get its work done.

So now we have no choice but to try to sit down around the table with people from the other end of Pennsylvania Avenue and get our work done.

□ 1500

We still have a large number of issues that divide us. We still have some major issues in the area of education that divide us to a great degree, matters of the President's initiative on class size, and matters of the President's initiative on school construction, so that we can see to it that children in this country are not, as the President says, brought up in buildings that are falling down.

We also have another cluster of issues involving a woman's right to

have her insurance policy cover basic contraceptive services. Those issues still have not been resolved.

We have a large number of issues on the environment that still divide us. We have a number of foreign policy issues that divide us, including the appropriate level of funding for the United Nations, which is crucial if we are going to be getting involved in a war in Kosovo, as it appears we may very well be getting into.

So it just it seems to me that we have an immense amount of work to do. We are going to have to have a great deal of flexibility in order to get it done. I would urge Congress to recognize that the President is serious. He intends to get these initiatives, and in my judgment, we are going to be here in Washington until he does.

With that, I would like to pack my bags very early, but I am not packing yet, because I think it is going to be a number of days before this work is completed.

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

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

Mr. Speaker, I have to say that in many respects I agree with what the gentleman from Wisconsin (Mr. OBEY) has said. I believe that the Committee on Appropriations has done its business within the time frame allotted to us. Unfortunately, that time frame has not been sufficient to complete our business, but I think we have a strong record of achievement.

In order to fully appreciate that record of achievement, I think that the gentleman from Wisconsin (Mr. OBEY) makes it incumbent upon me to try to state for the RECORD exactly our perspective of the events of the last year.

The fact is, what we are doing here today is a continuation of effort which began with the very significant achievement accrued by the Congress and the President last year when both sides, Republicans and Democrats in the House and Senate, reached an agreement with the President of the United States to balance the budget by the year 2002. The President signed on the dotted line.

We knew that budget restraint was going to be great in the coming years, but we felt very strongly, as many Members have for the last 30 years, that we were jeopardizing the fiscal integrity of this country and mortgaging our children's future if we did not make a dent on the deficit and begin to balance the budget, and that it was imperative that we work toward that goal.

Again, I wish to clarify the RECORD. The balanced budget agreement last year that we signed with the President called for a balanced budget by the year 2002. We have exceeded all expectations of only a year ago. We are balancing the budget. There is a $70 billion surplus. So our efforts paid off.

But it was as early as February of this year when the President stood where the Speaker pro tempore is standing and proclaimed to the Nation that the balanced budget agreement was nice when it was signed, but now he wanted an additional $9 billion this year in spending, and an additional $150 billion in spending for the next 5 to 10 years all financed with unrealistic offsets.

If the balanced budget agreement was good a year ago, it seems to me it is good now. The President had suggested in February, this last February, that he insisted on his spending, and he was going to require Congress to raise taxes and fees on the American people by a significant amount so he could tell them how their money should best be spent.

Congress did not accept those taxes and fees. The President criticizes us for not raising the price of a pack of cigarettes to every working stiff around America, and not raising tobacco taxes and other gimmicks, and user fees, and all sorts of other things that would give him that revenue that he could then turn around and hand to the American people and say, look what I have done for you.

We did not give him that extra revenue, because we do not believe in raising taxes. In fact, if anything, the House of Representatives believes in lowering taxes, and we have prepared a tax decrease, a tax cut of $80 billion over the next 10 years. Unfortunately, that did not prevail in the system because the President said he was going to veto it, so it just did not get through.

Still, we have the great distinction of working now with the first surplus in 30 years. The balanced budget agreement last year was successful beyond all means. But the President, in addition to laying out an agenda for extra spending, $9 billion this year over and above the budget caps he agreed to last year, also laid out an ambitious legislative agenda, and then unfortunately got caught up in a lot of problems that were not of the making of this Congress; in fact, they were of his own making.

Also, he did not hesitate to go off at the same time on lots of fundraising tours. He went all over the country raising money for his party. Fine, he is entitled to do that. But I daresay, some two-thirds of all the days that have transpired since the first of the year he was not at the White House, he was somewhere else. He was paying attention to other things. The legislative agenda was the farthest thing from his mind.

So we see now the President on TV saying that he demands that the Congress stay here until it does everything that he wants it to do, and I appreciate that. It is good politics. But we have been here, as the gentleman from Wisconsin (Mr. OBEY) points out, slugging it out, trying to do our work.

Unfortunately, we have made some mistakes along the way. We got engaged in a budget fight. Why? I do not know. Our fight goes something like we knew we had a wonderful balanced budget agreement with the President last year, but let us try to cut 10 percent of spending below that level that we agreed to. I said that was a mistake. I thought that was biting off a little more than we could chew. We fought about that for 3 or 4 months, and in the process, set back the appropriations schedule.

Normally, we would be taking up bills in mid May. We did not start taking up bills until mid June. I think this fight was a mistake, but that was not the fault of the Committee on Appropriations. I have to state that for the RECORD.

We did not start until the end of June, and then we had a break to go home for a district work period, and then we came back. We had a few days, and then we had some Jewish holidays. Then we came back, filled in, and then we had a few other things we had to go do. We came back and filled in.

The Committee on Appropriations has gotten its work done. In fact, we reported all but one of our bills out of committee by the end of July, and we passed nine of those bills by the end of July through the House of Representatives. It went over to the Senate. They had some progress as well, but because of the breaks and because of the late dates and because of the focus on other battles, other priorities, among various Members, Republican and Democrat, the fact is that we did not have the time to finish all of our conferences and get them reported out for consideration by the House.

As a result, we now find ourselves in this omnibus process, which means we finish as best we can conferencing all of our bills, lumping them together, and sending them to the President in one fell swoop, in addition to a significant supplemental appropriations for disasters, which are very much needed, but which are significant in terms of real dollars.

They include remedying the shortfalls in defense, because the President has troops deployed all over the world; passing Y2K computer conversion money to rectify the computer problem; passing additional funding to improve the safety and the security of our embassies, because of the bombings in Africa, and also in terms of trying to rectify the damage that has been done due to various storms and natural disasters, as well as to the drought and to the devastation in the farming community.

But by the time we consider that very significant disaster bill, in addition to the other emergencies, and add

them to this supplemental omnibus bill, our Members are going to be called upon to vote on a very large and significant bill within the next few days.

I am hoping against all hope that we are going to complete the discussions on this bill tonight, and that it will be compiled by our staff and be available for a vote and final passage in both bodies by Wednesday. For that reason, we are asking for this continuing resolution, in an effort to make sure that we do complete our business and get through the process. Hopefully we can close the House down on Wednesday before midnight, when this continuing resolution actually expires.

The bottom line is that we should play honestly with the cards that we are dealt. We need to recognize that we do need a better way to dispose of our budget dilemmas. We need to try to get out of the photo ops both in the House and Senate, Members of both sides of the aisle, and down at 1600 Pennsylvania Avenue.

We need to get into the conference rooms and decide our issues and look forward, not towards others, as we assess where we are and when we are going to get the job done. We need to ask for our colleagues' patience and support and understanding, and if they will provide that to us at this late hour, we will dispose of the Nation's business.

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

PARLIAMENTARY INQUIRY

Mr. OBEY. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. BASS). The gentleman will state it.

Mr. OBEY. Is it possible to have the rollcall machine turned on at this point, Mr. Speaker?

The SPEAKER pro tempore. Would the gentleman say his parliamentary inquiry again?

Mr. OBEY. Is it possible to have the rollcall machine turned on, so we can see the names of Members of the House displayed before us?

The SPEAKER pro tempore. That is not in order at this point.

Mr. OBEY. Further parliamentary inquiry. Does the Chair have a list of the membership of the House of Representatives at hand?

The SPEAKER pro tempore. The Clerk has the roll of the Members.

Mr. OBEY. Could the Speaker pro tempore tell me if the name of William Jefferson Clinton is listed among those who are a Member of the House?

The SPEAKER pro tempore. That is not a proper parliamentary inquiry. The gentleman from Wisconsin is recognized.

Mr. OBEY. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I thank the Speaker for making my point. The gentleman simply indicated in his remarks that one of the reasons that the Congress has not finished its work is because the President was out of town too often.

I would point out that the President is not a Member of this body. The President has no ability to determine whether this House is or is not going to produce its appropriation bills. Under the Constitution, the last time I looked, the only time that a president can affect an appropriation bill is after the Congress gets the bill to the president. The last time I looked, out of the 13 appropriation bills that we are supposed to finish before the end of the fiscal year, only two of those 13 have gotten to the President.

So with all due respect to the gentleman's argument, I would suggest it is passing the buck to suggest that somehow the President is at fault for not signing bills that we have not yet sent him. I would simply note that this Congress has worked the least number of work days in decades. We have enacted the least number of bills in decades. We have no budget. We have only two of the appropriation bills finished.

Since 1979, the average legislative session in a nonelection year has been 157 days. Yet, in the previous year, the Congress only met 132 days, five weeks shorter than the '79 average. So all I am suggesting, without trying to get into an argument about who shot John, is to suggest that the reason that we are here today is not because the President was not participating in any sessions. We are here today because the Congress did not finish its work.

In fact, in the appropriation meetings which they are having right now, fierce objection has been lodged, as the gentleman well knows, by parties to the very presence of staff representing the President to the United States.

All I am asking of the other side is to make one argument or make the other. Either argue that the President has not been sufficiently engaged, or argue that he should not be engaged, but they should not try to argue one thing outside of the room when they are talking to the press, and the other thing when they are inside the room talking to me, because I have a limited capacity to understand that kind of doubletalk.

□ 1515

Mr. LIVINGSTON. Mr. Speaker, I thought this was going to be a congenial, easygoing debate.

Anyone who knows anything about the legislative process knows that, Mr. Clinton is not a Member of Congress. I concede that. He is not a Member of the House. He is not a Member of the Senate. But, he occupies the Presidency now.

I happen to recall that, under the Constitution, that we must pass our bills and they must go down to the President for his signature or his veto.

Mr. Speaker, I turn on the television in the last few days, and I hear the President saying, that he is not going to accept anything less than everything.

He is making the demands now at the end of the process, conveniently 3 weeks before the election, and he really was not interested at all in the process over the last 8 months since his State of the Union speech.

Since July, our Committee on Appropriations members have been pleading with the administration to give us their budget offsets, which meant that if they asked us for more than the budget caps allowed to us in the budget agreement from last year, how could we pay for it? They said, We will give them to you. We will give them to you next week, next month, and then the next month.

The fact is that, until this morning, we did not get their budget offsets. We asked for them last Friday. We asked for them Saturday. We asked for them Sunday while we were all here. I was with the gentleman from Wisconsin (Mr. OBEY). I got tired of looking at him, too.

But the fact is, we were saying to the Administration, Look, give us your budget offsets, and we can find out how much over the budget caps we can be, because we are going to pay for it with your budget offsets. They gave them to us this morning, 12 days past the end of the fiscal year.

To say that the President does not need to be involved in the process is not wholly accurate. The fact is that the President's people have witnessed and watched every step of the way as we have progressed, but they have been holding their cards back, being cagey, waiting to the last second to give us their side. And the President all of a sudden at this late hour, after some of his problems got put behind him, all of a sudden is getting very tough. I appreciate that. That is the nature of the beast at this late political hour.

But, Mr. Speaker, the time for games, the time for photo ops, the time for political posturing is over. It is time to get down to business; finish this doggone omnibus and supplemental bill; send it to the President; and let us hope that the President is not politically posturing for photo ops or for election purposes and that he will be serious and that he will sign this bill and that we can go home.

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

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I sat here listening to the two gentlemen that I have immense respect for, the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the Committee on Appropriations, and the gentleman from Wisconsin (Mr. OBEY), ranking member. I have immense respect for all of the members of the

Committee on Appropriations. But we need to have something put in perspective.

There are 435 Members of Congress, and if each one of them was given an opportunity to spend the money, they would spend it 435 different ways.

It is also a bit unfair to criticize the President for traveling, even if it is in the nature of fund-raising. The White House travels with the President everywhere he is, all over the world. Not just Bill Clinton, any President. All of us know that. He is available at any point in time to undertake to do the business of this Nation.

What we can say that we have not done, no matter the direction of the criticism, is we have not done managed care reform. We have not done a bill to reduce class size in modernizing our schools. We have done no action to safeguard the surplus for Social Security. We have not done a bill to reduce teen smoking. So those are some exacting criticisms.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. KOLBE) chairman of the Subcommittee on Treasury, Postal Service, and General Government Appropriations.

Mr. KOLBE. Mr. Speaker, I thank the gentleman from Louisiana (Mr. LIVINGSTON) for yielding me this time.

Mr. Speaker, let me just say that I think it is very clear to those of us that have been around this process, and others speaking on the floor here have been around it a lot longer than I have, this is the kind of situation that we run into virtually every year at the end of the fiscal year. We always have the hopes that we are going to have every appropriation bill done by September 30, and we almost never do. At least in my recollection, I do not believe we have ever had all of them done by September 30.

So this is not unusual, whether it is a Republican Congress or a Democrat Congress. This is the nature of the way the legislative process works. The old adage about the two things one does not want to watch if they have got a bad stomach is sausage being made or laws being made, it certainly applies when we get to the end of session. It is just the nature of the beast that we have to get enough pressure built up for both sides to get something done.

So I think this bit of finger-pointing in either direction is really not very helpful. The fact is, this Congress has been here. We have been trying to get this done. The fact of the matter is that it has been hard to get the White House engaged. Heaven knows, they have had a few other things on their mind down there.

And the gentleman from Florida (Mr. HASTINGS) a moment ago said the White House travels with the President, whatever President. That is true. To some extent, that is true for us when we travel to our districts. We are always able to be in touch with our staffs back here. But we cannot negotiate the same way. It is very difficult for the President to negotiate or have his people negotiating when the President is not directly in touch or engaged in other things, and the President needs to be directly engaged in these kinds of negotiations.

We need to get this done so we can get the work of this Congress of this appropriations process done, and so that we can all get home and get this Congress over with. I think when it is all said and done, we can look back with considerable pride on this Congress and the work that we have done, on the legislation that we have passed, and the fact that we have achieved a balanced budget. I have no problems looking with pride on the record of this Congress.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I have a great deal of respect for the gentleman from Arizona (Mr. KOLBE) who just spoke. He is one of the best Members of the House, in my view. But I simply want to correct the Record.

This is not what happens every year. Last year, the majority of the appropriations bills were finished by the beginning of the fiscal year. We had a bipartisan approach last year.

The last year that I chaired the committee, every single one of the appropriations bills was finished on time. There was no need for any continuing resolution.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Speaker, to hear our friend, the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the Committee on Appropriations, one would think that there were a number of surprises this year: That we were limited to 12 months, as compared to other years; that, as the gentleman from Wisconsin (Mr. OBEY) the ranking Democrat pointed out, that the President was not here, a Member of the House negotiating on a daily basis.

The reality is what the very capable chairman of the Committee on Appropriations has for a problem is he cannot get agreement on his side in the House or in the Senate, and he cannot get the House and the Senate to agree.

Mr. GINGRICH, the Speaker, has decided that this year they will operate as a parliamentary body. So for a long time there has been a fight on the Republican side of the aisle, a very partisan fight based on political ideology. And with a 61-vote margin, they were not able to pass a budget bill. They have got a 10-vote margin in the Senate.

You would think that, without the President or without the Democrats, they could come together with a proposal, bring it to the House and the floor, pass it through both bodies and send it to the President and dare the President to veto it. They cannot get their House in order.

Lastly, we have spent time on the wrong things. My understanding is the Committee on Appropriations is trying to give billions, millions of dollars worth of oil money away to private citizens that really belongs to the Federal Government. Instead of dealing with health care reform, instead of dealing with a quarter of a million seniors in the country who have lost their HMO coverage, instead of dealing with education, we are still trying to take care of the private economic interests of a handful of people out there.

Mr. Speaker, I think if we could get the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBEY) to run this without some of the interference, we would do just fine in this House. The problem is a partisan battle inside the Republican party has prevented us from having a budget. It has prevented us from having an appropriation bill. And now, to argue that somehow either the month of the year or the Jewish holidays popping up in September is a surprise just does not work.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would just simply say to the gentleman from Connecticut (Mr. GEJDENSON) that I cannot speak for the budget process, but the Committee on Appropriations for this year has exceeded the record of all Committees on Appropriations of all Congresses over the last 15 years, with the exception of 5. In other words, we will have beaten the record for Congress' least action in 10 of the last 15 on the appropriations process if we get out of here on Wednesday.

Now, drag it out beyond there, and then maybe we might not be able to brag so much. But we are still doing pretty good.

I can remember over the last 15 or 20 years that I have had the great fortune of serving in Congress, the fact is there have been many years where we have been here at Christmas, struggling to wrap up appropriations bills by such time.

Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Alabama (Mr. CALLAHAN), chairman of the Subcommittee on Foreign Operations, Export Financing, and Related Programs Appropriations.

Mr. CALLAHAN. Mr. Speaker, this debate is supposed to be about whether or not we are going to fund the government for the next 2 days, rather than shut the government down. Instead, it has turned into a debate on who is responsible for what and where the President is, or whether or not the President's name is listed on the roster of the Members of House of Representatives.

But since we are in that mode, let me just say that my particular area of jurisdiction has to do with foreign aid. When the gentleman from Wisconsin (Mr. OBEY) was chairman of the Subcommittee on Foreign Operations Appropriations, I once described his job in the sense of raising a child, his job was to change the dirty diapers. It is not a pleasant task to give money to foreign countries politically. It is not something we like to go home and brag about.

But in defense of our subcommittee and our small area of jurisdiction and this overall budget application, let me say that we did exactly what we were supposed to do. We appropriated nearly $13 billion and gave the President as much latitude as we possibly could. We debated it in committee. We had hearings. We came to the floor and the House of Representatives voted for it to keep it at $13 billion.

The Senate did the same thing. We had resolved it in conference, or in a conference committee, and as a result we were ready to do what the Congress wanted to do.

Then, all of a sudden last week, we were sitting late at night in a meeting with OMB and I am then informed that if we do not give the President an additional billion dollars, plus 13 more billion dollars for IMF, that they are going to shut the government down.

That is not my fault. We went through this process as we were supposed to do. We had hearings. We appropriated. We got a consensus of the majority of the Members of the House and the Senate, and only last week did the President or OMB tell me, "SONNY, unless you give up $15 billion more for IMF and for foreign aid, we are going to shut the government down."

So, I think we have responsibly done our work, and I wish we would limit this debate to the issue we are on and that is whether or not we are going to continue to operate the government for another 2 days.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, first of all, the President has never said he was going to shut the government down. In fact, he has continually said he will sign every short-term CR the Congress sends him, so long as we are doing our work.

Secondly, he did not just say now he wanted his class-size initiative. He has been pushing for it all year long. He did not just say now he wanted to have schools modernized. He has been saying it all year long. And he did not just ask for the IMF. He asked for the IMF a year ago, and Congress has been foot-dragging it and tying it to an abortion issue.

□ 1530

Virtually every issue in this Congress sooner or later gets tied by the majority party to the abortion issue and the family planning issue. That is one of the reasons that we are so hung up and cannot get anything through here.

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

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I know a lot of these issues, all of them are very important to all of us as Americans. I know that we probably will end up completing our task this week. I am pleased that we have a balanced budget agreement and the first surplus in over three decades. I am proud of the transportation bill which means a 62 percent increase in Federal transportation dollars for my State, the State of Tennessee.

But some things I am not proud of is that we do not have a managed health care bill, no bill to reduce class size and modernize schools, being a former college president, no action to safeguard the surplus for Social Security, no bill to reduce teen smoking, no bill to reform our campaign finance system and no bill to increase the minimum wage for working families.

I realize as a Democrat we do not set the rules. We do not have the votes. But there are a lot of issues, there are a lot of problems that are still facing the American people, and we need to work together, hopefully in the 106th Congress better than we have in the 105th Congress, when it comes to being too partisan and being interested in our own vested interest and not in the best interest of the American people.

Mr. OBEY. Mr. Speaker, I yield 2 minutes and 30 seconds to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

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

Let me just set the stage, if I might, for a moment. Civics 101, Congress 101, whatever we want to call it, Congress is responsible for producing a budget. Congress is responsible for passing appropriations bills; that is, spending on various programs, education, defense, the environment, health care. The President gets involved at the end of the process.

So what do my colleagues mean when they say that the President is not around or has not been around? This body, in fact, has not sent the President anything to do. I will tell Members why they have not sent the President anything to do. Because we have the Congress here, Republican-controlled, I might add, in case you did not know it, that has spent the least number of workdays in decades, the least number of bills enacted in decades, no budget, no budget since the budget process began. They have not produced a budget. They are in charge. No budget.

I will tell my colleagues that they might also want to know, because it is important to know, that there were no bills to improve public education, nothing on managed care reform, campaign finance reform, bills to reduce teen smoking, protect the environment and no minimum wage increase. Zero, nada, nothing.

But one may think that this has happened because of the process here rather than by design. So let me tell my colleagues what some of their folks have said.

This is the chairman of the National Republican Campaign Committee. He said, write the 60-second commercial that we want to run the last week of the campaign, then focus the rest of the year aiming toward it.

We want to quote the Speaker of the House, who, in fact, is in charge of this body, the President is not in charge of this body, but the Speaker is, this is what he says. Other than passing a continuing resolution, and I might add, Mr. Speaker, that we are on the third continuing resolution, other than passing a continuing resolution to go home, there is nothing that we have to do between now and the election to win that election.

Someone who was a scholar about the congressional process says, it is pretty clear that when Congress left last fall, they wanted to get out as quickly as they could, come back as late as they could, and stay in as little as they could. The basic attitude of the majority, the Republican majority, is that the more we are in session, the more we will screw up. So we should just do the minimum.

Mr. Speaker, that is what they have done. They have done less than the minimum. We have a few remaining days here. Let us do something for the kids of this country. Let us increase the number of teachers that we have. Let us modernize our schools and do something for the children of America.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am delighted that the gentlewoman explained that it is the President's role to sit around and do nothing until we send him our bills. I guess that explains a lot about why we are where we are in this current dilemma with respect to the White House.

Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Arizona (Mr. KOLBE), chairman of the Subcommittee on Treasury, Postal Service, and General Government.

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

Let me just respond to a few of the things. First, to my friend and the ranking member of the Committee on Appropriations, he is right. I was wrong about the fact that in fiscal year 1995 all of the bills got done. I should have pointed out that whenever the situation was the same, that is, the reverse of what it is today, Republican-

controlled Congress, Democrat President, when all of those first 10 years that I was here it was a Republican President and Democratic-controlled Congress, and then the Democrats were not able to get all the bills done, I think that would be the apples-to-apples comparison.

The fact of the matter is, this is not an unusual process that we have been going through. The gentleman from Tennessee spoke about the fact that we had failed to pass a minimum wage. He seems to forget that we did pass a minimum wage last year, and not too many people believe, whether they are economists or otherwise or in business, that another minimum wage at this point is good for the Nation's economy and certainly not good for people at the low end of the income scale who would be the first ones that get laid off.

Finally, as the gentleman from Louisiana pointed out in response to the gentlewoman from Connecticut's remarks, since when is it the President only gets involved in the process at the end? He comes to the Congress at the State of the Union address. He has not only a budget that he presents, but he has a whole list of issues and of achievements that he would like to see us, that he would like to achieve, issues that he would like us to deal with. So he is involved from the very outset.

It is just that in this case he has chosen in the budget process to stay disengaged after proposing his budget. He has been disengaged throughout this process.

But last year we talked about the achievements of this Congress. Last year we passed the Balanced Budget Act, which gave the first tax relief in 16 years to American citizens, a $500-a-year tax credit for every child that is under the age of 16, tax relief for those who paid their own health insurance premiums, tax relief for those who have to face the inheritance tax. So the accomplishments of this Congress are very, very substantial, and I am glad that the President has seen fit to sign some of those into law.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, it is not by accident that we are here today. It is intentional.

The Republicans were so giddy and so excited about the Starr investigation and the prospect of impeaching the President of the United States that they decided that they would not have to do any work today. The other half of them decided that they could push a right-wing agenda and foist it off on the President of the United States, they could sweep aside his State of the Union address, they could sweep aside his agenda and do nothing and go home and gain seats because they were going to impeach the President of the United States.

So what did they start doing? They started reducing the workweek. They extended the time from January to March before the Congress came back. They extended the August break. They extended the July break. As a matter of fact, in the last 3 years the Republican Congress has lost 2 months of productivity. If they keep it up, by the year 2002, Congress will not meet at all. They will not meet at all because the Republicans just keep giving away the days.

They did it because they thought they had the President over a barrel. Well, the fact of the matter is, once again, their streak is perfect. Speaker GINGRICH and the Republican leadership four out of four years have underestimated the President of the United States, because the President is back here, telling them that he wants his agenda considered in this Congress that refused to consider it for this entire year.

He wants us to address education, the environment, HMO legislation, minimum wage and tobacco legislation. The Republicans thought they could get out of town without doing that.

The fact of the matter is that now they are insisting that the President do in 2 days what they could not do in 2 years. So let us understand that this is not an accident. This was intended. But we are going to respond to the President's agenda, and the President is going to keep us here until we do. Because there is a very high correlation between the President's agenda and what the American public thinks this Congress ought to be doing, that this Congress ought to be dealing with the education of our children, we ought to be helping to rebuild crumbling schools, we ought to make sure that children have technology available to them. We ought to make sure that patients are protected in the Patients' Bill of Rights so that doctors and patients control the health care and not the insurance company bureaucrats.

That is the agenda of this President. That is the agenda of the American people, and that is the agenda that the Republicans thought they could sneak out of town without addressing. It is not going to happen, Mr. Speaker. It is really not the Committee on Appropriations's fault because they get caught up in these crossfires that really their job has little or nothing to do with. They just get saddled with trying to solve this at the end of the year.

But the fact of the matter is, the fact of the matter is that this Congress ought to go back to work, and we ought to go back to work and address the needs of the American people and the agenda of President Clinton. They put an awful lot of eggs in one basket that they would have a President that was so weakened today that they could do anything they wanted with respect to the American public. They got caught at it. Now go back to work.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I rise in support of the resolution by the gentleman from Louisiana.

I know that Members want to engage in different blame games of what goes back and forth, but I think what we really ought to be talking about is the chance for the American people to know what we are doing and the openness of the process.

There was an agreement that was made last year regarding how much money would be spent this year. The President, however, when he presented his budget wanted to spend more. And he presented a plan on how to be able to do it; namely, to have offsets through different things such as tobacco taxes, which did not materialize. Indeed, I know there are many Members on the other side of the aisle that also agreed that we should not be raising taxes, whether we called it direct or indirect taxes.

Mr. Speaker, when that extra money did not materialize, then of course we would expect that the President would say, okay, there is not as much money, therefore, here is how I will cut back on my proposals, because if we want to spend money, we have to say where is the money going to originate.

The President did not do that. We have had efforts, and I think some numbers have been presented in the last couple of days saying, here is where we can trim something else to be able to spend this money on my education programs and so forth.

Well, it is a little late in the game, but it is being looked at. I appreciate, for example, the attitude that has been displayed by the gentleman from Maryland (Mr. HOYER), also a member of the Committee on Appropriations. He has a number of times stood on this floor and said, if you want to spend the money, you should show where the tax or other offset will originate to pay for it.

We have not known what the President proposed to cut back in order to justify the additional spending that he desired. Indeed, I think the American people have a right to know. Something like that should not be presented just in a private, closed-door meeting. If you want to spend more on item A, tell us where you are going to reduce spending on item B. Unfortunately, we cannot have it both ways. So we are in this situation because of that, and I ask support of the resolution.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, we do need to stay here and work. I think that anyone who ignores the need for 100,000 teachers, for fixing

our crumbling schools is not aware of what Americans want. If they are not listening to America with respect to the Patients' Bill of Rights or fixing the interim payment system that our home health care agencies are crying out for, then they are not listening to the American people. If they did not realize that Matthew Shepard died last night in Wyoming, a gay man who was attacked brutally, and realize that we need to pass the Hate Crimes Prevention Act of 1998, they are not listening to America.

We need to stay here and do our job. We need to respond to America's children. We need to respond to those who need good health care. We need to respond to those who are home-bound and need good home health care. And we certainly need to respond to those who perpetrate hate by passing the Hate Crimes Prevention Act of 1998.

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Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. CALLAHAN), the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations.

Mr. CALLAHAN. Mr. Speaker, I wish to make one or two personal comments, and I certainly do not mean to reflect or cast anything upon my colleagues from Connecticut nor California in their comments about our inabilities or our lack of accomplishments. But, nevertheless, each and every one of the issues that they spoke about was voted on and voted down by a majority of either the subcommittee, the full committee, or the House of Representatives. So they did not get their way and now they come along and want to get their way in these closing moments.

Just to add a little levity to this, the gentleman from Wisconsin (Mr. OBEY) and the gentlewoman from Connecticut brought up a point that this Congress has met fewer days than any other Congress and this Congress has passed fewer bills than any other Congress. I doubt that that is quite factual, but even if it were, believe it or not, and it is a compliment to the diversity of this body, believe it or not some of the people in south Alabama feel like the less we do passing laws, the better off they are, and the less we work, the better off they are.

This is just to continue the operations of the government. Please vote "yes".

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the ranking member for yielding me this time, and I rise in support, as the previous speakers have, in support of the continuing resolution and to lament the fact that just a few years ago the gentleman from Wisconsin (Mr. OBEY) offered, I offered, the gentleman from Virginia (Mr. DAVIS) on the Republican side of the aisle offered clean continuing resolutions to keep the government going while we tried to work out our differences. That was the way to do it. We are now doing it the proper way.

And I would reiterate what the chairman and what the ranking member said. The President has indicated he has no intention of shutting down this government and will, in fact, sign short-term CRs while we come to grips with important priorities.

The President stood at that podium in early February and set forth an agenda. The response to that speech was overwhelming. He indicated that the State of the Union was good. It is. Most of us, or many of us believe it is good because of the 1993 economic program the President put on this floor and was passed in the Congress and signed by the President, which has, in fact, brought us that balanced budget.

The fact of the matter is, I say to my friend from Alabama, there are some bills that even the people in south Alabama would like and southern Maryland would like, and that is legislation to make sure that our kids have enough schools in which to be educated; that they are not crumbling down around them; that they are not dangerous and unhealthy.

The President put forth before the Congress a program to help communities build additional classrooms. And then the President said, from this podium, we understand that there is a teacher shortage, that classes are overcrowded. We have 35 to 40 students in a class, and that even the best of teachers cannot educate our children to compete around the globe with that many students. So he said, let us put 100,000 new teachers in our classrooms; just as he said, let us put 100,000 COPS on the Beat, back in 1994, and we have seen the crime rate go down.

My suggestion to my colleagues, if we came to grips, yes, even in the next 42, 48, or 72 hours with putting those 100,000 teachers in our classrooms, as crime went down, I suggest that our educational level would go up.

And, yes, my friend from Alabama has been one of the most responsible Members of this House. As he knows, he is one of my favorites. But, frankly, my fellow Members, we said we were going to pass IMF a long time ago. We promised we would get IMF done. We know the world economy is in a critical situation. We know that the stability that IMF lends to it is absolutely critical at this stage. But where is IMF? It is not yet.

Y2K was promised to be passed months ago, to make sure our computers know that the 2000 year has come and continue to operate so that our airways are safe and the taxpayers get their money back on time and all the things we need to do.

Yes, this CR is a good one, but let us come to grips with the important priorities this President has brought before us, pass them, and then we will have a success.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. BASS). The gentleman from Wisconsin (Mr. OBEY) has 3½ minutes remaining, and the gentleman from Louisiana (Mr. LIVINGSTON) has 4½ minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we are here long after we should be because the Republican majority is saying no to the President's request to target funding for reducing class sizes in America. We are here because the Republican majority is saying no to helping the poorest school districts in the country repair broken down and dangerous school buildings. We are here with the Congress having passed no real HMO reform legislation, only sham reform legislation. We are now even told by one of the previous speakers that the majority party is happy that they have not passed a minimum wage increase. We are here because the Republican Party is saying no to insurance coverage for women for basic contraceptive services.

There are some who would like to blame the President for everything, including the pitiful shape of the Washington Redskins. I would simply say that I have in my hand, as someone from Wisconsin used to say it, a little booklet called "How Our Laws Are Made." Even Members of Congress, I think, have sufficient reading ability in the English language to understand what the book says. And what that book says is that it is the job of the Congress to pass appropriation bills, and then it is the job of the President to decide whether he is going to sign them or veto them.

The fact is, out of the 13 appropriation bills that are supposed to be sent to the President, only four have been sent, and two of those four have been signed. That indicates, to me, that when all the buck passing is over, that the Congress, if it wants to know why we are stuck in this situation, has to look only in one place: the mirror. Because it is the congressional responsibility to fund the government.

There are lots of things our taxpayers do not want us to do. And I say to my good friend, the gentleman from Alabama (Mr. CALLAHAN), I agree with him that there are many, many pieces of legislation that this Congress has passed that I think it should not have passed, but the basic responsibility of the Congress is to fund the government. That is our basic responsibility.

For a variety of reasons, this Congress has not been able to do it. That is

why we are at the table and at this point, with many, many issues still to go, are asking the Congress to get 2 more days to get the work done.

I hope we can get it done in those 2 days, but I want to emphasize that will not be the case unless there is considerably more movement than there has been to date in accepting the President's major priorities.

We have had some movement in some areas, and I welcome it. That is constructive. But we must have much more movement on the part of the Congress, and I hope fervently that we get it before this next continuing resolution expires.

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

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have heard all of this lamentation by my friends in the minority who decry the fact that we have not passed their agenda. Well, I am sorry. Such are the trials and tribulations of the minority.

No, we did not want to pass the tobacco taxes because we did not think that "Joe Six-Pack" should pay any more taxes. We do not want to pass any more taxes. We passed a tax cut in this House of Representatives over the objections of most of my friends on the Democratic side, and the President threatened to veto it, and we have no tax cut. But America is still taxed as highly today as it has since World War II.

I know that the President has said he would like to fix broken schools, and that is a fine objective. I appreciate that. But 95 percent of the education budget has been picked up by the States throughout the history of this country. In fact, up until 30 years ago, 100 percent of the education budget was picked up by the States. Once one starts getting the Federal Government involved in the building of schools, there is no end to it, and the taxpayer is already overburdened.

The money does not just grow on trees. The money has got to come from somewhere, and it is a tremendous cost.

Next, there is the phony campaign finance law that the Democrats are always lamenting. I will only say that most of the campaign violations that are being investigated of existing law did not happen at the Republican National Committee. They happened elsewhere.

The provision of 100,000 teachers is an authorization bill. That is not an appropriations bill. We are talking about wrapping up the appropriations process, and that particularly concerns me because the President has all of these great ideas that he came out with for lots of extra spending, billions and billions of dollars in extra spending, back in February, notwithstanding his agreement to balance the budget. Frankly, then he went on a sabbatical and did not try to push his authorization bills, his changes of policy through the authorization process. That bill is not an appropriations bill. It is a policy change that should go through the authorization process, and it has not.

So here we stand today simply debating whether or not to keep the government open. It is our hope that the government will remain open, that we will pass this continuing resolution to allow us to complete our business for another 2 days, and then we can close up shop.

The fact that we have debated, over the last hour, the failure of the budget process is of no real moment in this debate. It has nothing to do with why we are here. The whereabouts of the President, I have to concede, is not really our concern. The vagaries of the congressional schedule is not of any great relevance to what we are doing here.

The people that come here and lament the passage of these various bills, they shed great tears that are merely wasted water. All we are trying to do is keep the government open, nothing more and nothing less.

For those Members who lament the slow progress of the government, do they want to see whether or not we are actually doing things? Walk over there to the appropriations office, H–218, and they will see lots and lots and lots of bills that have nothing whatsoever to do with the appropriations process, but which Members, Republican and Democrat alike, would like to get in in these last few hours in this omnibus package.

I dare say they will have to wait for another day. Some of them will get through, but the main issue, the reason we are here about today, is to keep the government open and to finish our business and to take all of these grand plans that Members might have and bring them back next year. Because Congress will open in the 106th Congress on January 6, and the world will move on.

The SPEAKER pro tempore (Mr. BASS). All time has expired.

The joint resolution is considered as read for amendment.

Pursuant to the order of the House of today, the previous question is ordered on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

MICCOSUKEE RESERVED AREA ACT

Mr. HANSEN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3055) to deem the activities of the Miccosukee Tribe of the Tamiami Indian Reservation to be consistent with the purposes of the Everglades National Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3055

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 "Miccosukee Reserved Area Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since 1964, the Miccosukee Tribe of Indians of Florida have lived and governed their own affairs on a strip of land on the northern edge of the Everglades National Park pursuant to permits from the National Park Service and other legal authority. The current permit expires in 2014.

(2) Since the commencement of the Tribe's permitted use and occupancy of the Special Use Permit Area, the Tribe's membership has grown, as have the needs and desires of the Tribe and its members for modern housing, governmental and administrative facilities, schools and cultural amenities, and related structures.

(3) The United States, the State of Florida, the Miccosukee Tribe, and the Seminole Tribe of Florida are participating in a major intergovernmental effort to restore the South Florida ecosystem, including the restoration of the environment of the Park.

(4) The Special Use Permit Area is located within the northern boundary of the Park, which is critical to the protection and restoration of the Everglades, as well as to the cultural values of the Miccosukee Tribe.

(5) The interests of both the Miccosukee Tribe and the United States would be enhanced by a further delineation of the rights and obligations of each with respect to the Special Use Permit Area and to the Park as a whole.

(6) The amount and location of land allocated to the Tribe fulfills the purposes of the Park.

(7) The use of the Miccosukee Reserved Area by the Miccosukee Tribe does not constitute an abandonment of the Park.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To replace the special use permit with a legal framework under which the Tribe can live permanently and govern the Tribe's own affairs in a modern community within the Park.

(2) To protect the Park outside the boundaries of the Miccosukee Reserved Area from adverse effects of structures or activities within that area, and to support restoration of the South Florida ecosystem, including restoring the environment of the Park.

SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) EVERGLADES.—The term "Everglades" means the areas within the Florida Water Conservation Areas, Everglades National Park, and Big Cypress National Preserve.

(3) FEDERAL AGENCY.—The term "Federal agency" means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(4) MICCOSUKEE RESERVED AREA; MRA.—

(A) IN GENERAL.—The term "Miccosukee Reserved Area" or "MRA" means, notwithstanding any other provision of law and subject to the limitations specified in section 6(d) of this Act, the portion of the Everglades National Park described in subparagraph (B) that is depicted on the map entitled "Miccosukee Reserved Area" numbered NPS-160/41,038, and dated September 30, 1998, copies of which shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Miami-Dade County and the Miccosukee Tribe of Indians of Florida.

(B) DESCRIPTION.—The description of the lands referred to in subparagraph (A) is as follows: "Beginning at the western boundary of Everglades National Park at the west line of sec. 20, T. 54 S., R. 35 E., thence E. following the Northern boundary of said Park in T. 54 S., Rs. 35 and 36 E., to a point in sec. 19, T. 54 S., R. 36 E., 500 feet west of the existing road known as Seven Mile Road, thence 500 feet south from said point, thence west paralleling the Park boundary for 3,200 feet, thence south for 600 feet, thence west, paralleling the Park boundary to the west line of sec. 20, T. 54 S., R. 35 E., thence N. 1,100 feet to the point of beginning.".

(5) PARK.—The term "Park" means the Everglades National Park, including any additions to that Park.

(6) PERMIT.—The term "permit", unless otherwise specified, means any federally issued permit, license, certificate of public convenience and necessity, or other permission of any kind.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior or the designee of the Secretary.

(8) SOUTH FLORIDA ECOSYSTEM.—The term "South Florida ecosystem" has the meaning given that term in section 528(a)(4) of the Water Resources Development Act of 1996 (Public Law 104-303).

(9) SPECIAL USE PERMIT AREA.—The term "special use permit area" means the area of 333.3 acres on the northern boundary of the Park reserved for the use, occupancy, and governance of the Tribe under a special use permit before the date of enactment of this Act.

(10) TRIBE.—The term "Tribe", unless otherwise specified, means the Miccosukee Tribe of Indians of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and recognized by the State of Florida pursuant to chapter 285, Florida Statutes.

(11) TRIBAL.—The term "tribal" means of or pertaining to the Miccosukee Tribe of Indians of Florida.

(12) TRIBAL CHAIRMAN.—The term "tribal chairman" means the duly elected chairman of the Miccosukee Tribe of Indians of Florida, or the designee of that chairman.

SEC. 5. TRIBAL RIGHTS AND AUTHORITY ON THE MICCOSUKEE RESERVED AREA.

(a) SPECIAL USE PERMIT TERMINATED.—

(1) TERMINATION.—The special use permit dated February 1, 1973, issued by the Secretary to the Tribe, and any amendments to that permit, are terminated.

(2) EXPANSION OF SPECIAL USE PERMIT AREA.—The geographical area contained in the former special use permit area referred to in paragraph (1) shall be expanded pursuant to this Act and known as the Miccosukee Reserved Area.

(3) GOVERNANCE OF AFFAIRS IN MICCOSUKEE RESERVED AREA.—Subject to the provisions of this Act and other applicable Federal law, the Tribe shall govern its own affairs and otherwise make laws and apply those laws in the MRA as though the MRA were a Federal Indian reservation.

(b) PERPETUAL USE AND OCCUPANCY.—The Tribe shall have the exclusive right to use and develop the MRA in perpetuity in a manner consistent with this Act for purposes of the administration, education, housing, and cultural activities of the Tribe, including commercial services necessary to support those purposes.

(c) INDIAN COUNTRY STATUS.—The MRA shall be—

(1) considered to be Indian country (as that term is defined in section 1151 of title 18, United States Code); and

(2) treated as a federally recognized Indian reservation solely for purposes of—

(A) determining the authority of the Tribe to govern its own affairs and otherwise make laws and apply those laws within the MRA; and

(B) the eligibility of the Tribe and its members for any Federal health, education, employment, economic assistance, revenue sharing, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their—

(i) status as Indians; and

(ii) residence on or near an Indian reservation.

(d) EXCLUSIVE FEDERAL JURISDICTION PRESERVED.—The exclusive Federal legislative jurisdiction as applied to the MRA as in effect on the date of enactment of this Act shall be preserved. The Act of August 15, 1953, 67 Stat. 588, chapter 505 and the amendments made by that Act, including section 1162 of title 18, United States Code, as added by that Act and section 1360 of title 28, United States Code, as added by that Act, shall not apply with respect to the MRA.

(e) OTHER RIGHTS PRESERVED.—Nothing in this Act shall affect any rights of the Tribe under Federal law, including the right to use other lands or waters within the Park for other purposes, including, fishing, boating, hiking, camping, cultural activities, or religious observances.

SEC. 6. PROTECTION OF EVERGLADES NATIONAL PARK.

(a) ENVIRONMENTAL PROTECTION AND ACCESS REQUIREMENTS.—

(1) IN GENERAL.—The MRA shall remain within the boundaries of the Park and be a part of the Park in a manner consistent with this Act.

(2) COMPLIANCE WITH APPLICABLE LAWS.—The Tribe shall be responsible for compliance with all applicable laws, except as otherwise provided by this Act.

(3) PREVENTION OF DEGRADATION; ABATEMENT.—

(A) PREVENTION OF DEGRADATION.—Pursuant to the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall prevent and abate degradation of the quality of surface or groundwater that is released into other parts of the Park, as follows:

(i) With respect to water entering the MRA which fails to meet applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), actions of the Tribe shall not further degrade water quality.

(ii) With respect to water entering the MRA which meets applicable water quality standards approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Tribe shall not cause the water to fail to comply with applicable water quality standards.

(B) PREVENTION AND ABATEMENT.—The Tribe shall prevent and abate disruption of the restoration or preservation of the quantity, timing, or distribution of surface or groundwater that would enter the MRA and flow, directly or indirectly, into other parts of the Park, but only to the extent that such disruption is caused by conditions, activities, or structures within the MRA.

(C) PREVENTION OF SIGNIFICANT PROPAGATION OF EXOTIC PLANTS AND ANIMALS.—The Tribe shall prevent significant propagation of exotic plants or animals outside the MRA that may otherwise be caused by conditions, activities, or structures within the MRA.

(D) PUBLIC ACCESS TO CERTAIN AREAS OF THE PARK.—The Tribe shall not impede public access to those areas of the Park outside the boundaries of the MRA, and to and from the Big Cypress National Preserve, except that the Tribe shall not be required to allow individuals who are not members of the Tribe access to the MRA other than Federal employees, agents, officers, and officials (as provided in this Act).

(E) PREVENTION OF SIGNIFICANT CUMULATIVE ADVERSE ENVIRONMENTAL IMPACTS.—

(i) IN GENERAL.—The Tribe shall prevent and abate any significant cumulative adverse environmental impact on the Park outside the MRA resulting from development or other activities within the MRA.

(ii) PROCEDURES.—Not later than 12 months after the date of enactment of this Act, the Tribe shall develop, publish, and implement procedures that shall ensure adequate public notice and opportunity to comment on major tribal actions within the MRA that may contribute to a significant cumulative adverse impact on the Everglades ecosystem.

(iii) WRITTEN NOTICE.—The procedures in clause (ii) shall include timely written notice to the Secretary and consideration of the Secretary's comments.

(F) WATER QUALITY STANDARDS.—

(i) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Tribe shall adopt and comply with water quality standards within the MRA that are at least as protective as the water quality standards for the area encompassed by Everglades National Park approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(ii) TRIBAL WATER QUALITY STANDARDS.—The Tribe may not adopt water quality standards for the MRA under clause (i) that are more restrictive than the water quality standards adopted by the Tribe for contiguous reservation lands that are not within the Park.

(iii) EFFECT OF FAILURE TO ADOPT OR PRESCRIBE STANDARDS.—In the event the Tribe fails to adopt water quality standards referred to in clause (i), the water quality standards applicable to the Everglades National Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that meet the requirements of this subparagraph.

(iv) MODIFICATION OF STANDARDS.—If, after the date of enactment of this Act, the standards referred to in clause (iii) are revised, not later than 1 year after those standards are revised, the Tribe shall make such revisions to water quality standards of the Tribe as are necessary to ensure that those water quality standards are at least as protective as the revised water quality standards approved by the Administrator.

(v) EFFECT OF FAILURE TO MODIFY WATER QUALITY STANDARDS.—If the Tribe fails to revise water quality standards in accordance with clause (iv), the revised water quality standards applicable to the Everglades Park, approved by the Administrator under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) shall be deemed to apply by operation of Federal law to the MRA until such time as the Tribe adopts water quality standards that are at least as protective as the revised water quality standards approved by the Administrator.

(G) NATURAL EASEMENTS.—The Tribe shall not engage in any construction, development, or improvement in any area that is designated as a natural easement.

(b) HEIGHT RESTRICTIONS.—

(1) RESTRICTIONS.—Except as provided in paragraphs (2) through (4), no structure constructed within the MRA shall exceed the height of 45 feet or exceed 2 stories, except that a structure within the Miccosukee Government Center, as shown on the map referred to in section 4(4), shall not exceed the height of 70 feet.

(2) EXCEPTIONS.—The following types of structures are exempt from the restrictions of this section to the extent necessary for the health, safety, or welfare of the tribal members, and for the utility of the structures:

(A) Water towers or standpipes.

(B) Radio towers.

(C) Utility lines.

(3) WAIVER.—The Secretary may waive the restrictions of this subsection if the Secretary finds that the needs of the Tribe for the structure that is taller than structure allowed under the restrictions would outweigh the adverse effects to the Park or its visitors.

(4) GRANDFATHER CLAUSE.—Any structure approved by the Secretary before the date of enactment of this Act, and for which construction commences not later than 12 months after the date of enactment of this Act, shall not be subject to the provisions of this subsection.

(5) MEASUREMENT.—The heights specified in this subsection shall be measured from mean sea level.

(c) OTHER CONDITIONS.—

(1) GAMING.—No class II or class III gaming (as those terms are defined in section 4 (7) and (8) of the Indian Gaming Regulatory Act (25 U.S.C. 2703 (7) and (8)) shall be conducted within the MRA.

(2) AVIATION.—

(A) IN GENERAL.—No commercial aviation may be conducted from or to the MRA.

(B) EMERGENCY OPERATORS.—Takeoffs and landings of aircraft shall be allowed for emergency operations and administrative use by the Tribe or the United States, including resource management and law enforcement.

(C) STATE AGENCIES AND OFFICIALS.—The Tribe may permit the State of Florida, as agencies or municipalities of the State of Florida to provide for takeoffs or landings of aircraft on the MRA for emergency operations or administrative purposes.

(3) VISUAL QUALITY.—

(A) IN GENERAL.—In the planning, use, and development of the MRA by the Tribe, the Tribe shall consider the quality of the visual experience from the Shark River Valley visitor use area, including limitations on the height and locations of billboards or other commercial signs or other advertisements visible from the Shark Valley visitor center, tram road, or observation tower.

(B) EXEMPTION OF MARKINGS.—The Tribe may exempt markings on a water tower or standpipe that merely identify the Tribe.

(d) EASEMENTS AND RANGER STATION.—Notwithstanding any other provision of this Act, the following provisions shall apply:

(1) NATURAL EASEMENTS.—

(A) IN GENERAL.—The use and occupancy of the MRA by the Tribe shall be perpetually subject to natural easements on parcels of land that are—

(i) bounded on the north and south by the boundaries of the MRA, specified in the legal description under section 4(4); and

(ii) bounded on the east and west by boundaries that run perpendicular to the northern and southern boundaries of the MRA, as provided in the description under subparagraph (B).

(B) DESCRIPTION.—The description referred to in subparagraph (A)(ii) is as follows:

(i) Easement number 1, being 445 feet wide with western boundary 525 feet, and eastern boundary 970 feet, east of the western boundary of the MRA.

(ii) Easement number 2, being 443 feet wide with western boundary 3,637 feet, and eastern boundary 4,080 feet, east of the western boundary of the MRA.

(iii) Easement number 3, being 320 feet wide with western boundary 5,380 feet, and eastern boundary 5,700 feet, east of the western boundary of the MRA.

(iv) Easement number 4, being 290 feet wide with western boundary 6,020 feet, and eastern boundary 6,310 feet, east of the western boundary of the MRA.

(v) Easement number 5, being 290 feet wide with western boundary 8,170 feet, and eastern boundary 8,460 feet, east of the western boundary of the MRA.

(vi) Easement number 6, being 312 feet wide with western boundary 8,920 feet, and eastern boundary 9,232 feet, east of the western boundary of the MRA.

(2) EXTENT OF EASEMENTS.—The aggregate extent of the east-west parcels of lands subject to easements under paragraph (1) shall not exceed 2,100 linear feet, as depicted on the map referred to in section 4(4).

(3) USE OF EASEMENTS.—At the discretion of the Secretary, the Secretary may use the natural easements specified in paragraph (1) to fulfill a hydrological or other environmental objective of the Everglades National Park.

(4) ADDITIONAL REQUIREMENTS.—In addition to providing for the easements specified in paragraph (1), the Tribe shall not impair or impede the continued function of the water control structures designated as "S-12A" and "S-12B", located north of the MRA on the Tamiami Trail and any existing water flow ways under the Old Tamiami Trail.

(5) USE BY DEPARTMENT OF THE INTERIOR.—The Department of the Interior shall have a right, in perpetuity, to use and occupy, and to have vehicular and airboat access to, the Tamiami Ranger Station identified on the map referred to in section 4(4), except that the pad on which such station is constructed shall not be increased in size without the consent of the Tribe.

SEC. 7. IMPLEMENTATION PROCESS.

(a) GOVERNMENT-TO-GOVERNMENT AGREEMENTS.—The Secretary and the tribal chairman shall make reasonable, good faith efforts to implement the requirements of this Act. Those efforts may include government-to-government consultations, and the development of standards of performance and monitoring protocols.

(b) FEDERAL MEDIATION AND CONCILIATION SERVICE.—If the Secretary and the tribal chairman concur that they cannot reach agreement on any significant issue relating to the implementation of the requirements of this Act, the Secretary and the tribal chairman may jointly request that the Federal Mediation and Conciliation Service assist them in reaching a satisfactory agreement.

(c) 60-DAY TIME LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other nonbinding dispute resolution activities for a period not to exceed 60 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance, unless the Secretary and the tribal chairman agree to an extension of period of time.

(d) OTHER RIGHTS PRESERVED.—The facilitated dispute resolution specified in this section shall not prejudice any right of the parties to—

(1) commence an action in a court of the United States at any time; or

(2) any other resolution process that is not prohibited by law.

SEC. 8. MISCELLANEOUS.

(a) NO GENERAL APPLICABILITY.—Nothing in this Act creates any right, interest, privilege, or immunity affecting any other Tribe or any other park or Federal lands.

(b) NONINTERFERENCE WITH FEDERAL AGENTS.—

(1) IN GENERAL.—Federal employees, agents, officers, and officials shall have a right of access to the MRA—

(A) to monitor compliance with the provisions of this Act; and

(B) for other purposes, as though it were a Federal Indian reservation.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act shall authorize the Tribe or members or agents of the Tribe to interfere with any Federal employee, agent, officer, or official in the performance of official duties (whether within or outside the boundaries of the MRA) except that nothing in this paragraph may prejudice any right under the Constitution of the United States.

(c) FEDERAL PERMITS.—

(1) IN GENERAL.—No Federal permit shall be issued to the Tribe for any activity or structure that would be inconsistent with this Act.

(2) CONSULTATIONS.—Any Federal agency considering an application for a permit for construction or activities on the MRA shall consult with, and consider the advice, evidence, and recommendations of the Secretary before issuing a final decision.

(3) RULE OF CONSTRUCTION.—Except as otherwise specifically provided in this Act, nothing in this Act supersedes any requirement of any other applicable Federal law.

(d) VOLUNTEER PROGRAMS AND TRIBAL INVOLVEMENT.—The Secretary may establish programs that foster greater involvement by the Tribe with respect to the Park. Those efforts may include internships and volunteer programs with tribal schoolchildren and with adult tribal members.

(e) SAVING ECOSYSTEM RESTORATION.—

(1) IN GENERAL.—Nothing in this Act shall be construed to amend or prejudice the authority of the United States to design, construct, fund, operate, permit, remove, or degrade canals, levees, pumps, impoundments, wetlands, flow ways, or other facilities, structures, or systems, for the restoration or protection of the South Florida ecosystem pursuant to Federal laws.

(2) USE OF NONEASEMENT LANDS.—

(A) IN GENERAL.—The Secretary may use all or any part of the MRA lands to the extent necessary to restore or preserve the

quality, quantity, timing, or distribution of surface or groundwater, if other reasonable alternative measures to achieve the same purpose are impractical.

(B) SECRETARIAL AUTHORITY.—The Secretary may use lands referred to in subparagraph (A) either under an agreement with the tribal chairman or upon an order of the United States district court for the district in which the MRA is located, upon petition by the Secretary and finding by the court that—

(i) the proposed actions of the Secretary are necessary; and

(ii) other reasonable alternative measures are impractical.

(3) COSTS.—

(A) IN GENERAL.—In the event the Secretary exercises the authority granted the Secretary under paragraph (2), the United States shall be liable to the Tribe or the members of the Tribe for—

(i) cost of modification, removal, relocation, or reconstruction of structures lawfully erected in good faith on the MRA; and

(ii) loss of use of the affected land within the MRA.

(B) PAYMENT OF COMPENSATION.—Any compensation paid under subparagraph (A) shall be paid as cash payments with respect to taking structures and other fixtures and in the form of rights to occupy similar land adjacent to the MRA with respect to taking land.

(4) RULE OF CONSTRUCTION.—Paragraphs (2) and (3) shall not apply to a natural easement described in section 6(d)(1).

(f) PARTIES HELD HARMLESS.—

(1) UNITED STATES HELD HARMLESS.—

(A) IN GENERAL.—Subject to subparagraph (B) with respect to any tribal member, tribal employee, tribal contractor, tribal enterprise, or any person residing within the MRA, notwithstanding any other provision of law, the United States (including an officer, agent, or employee of the United States), shall not be liable for any action or failure to act by the Tribe (including an officer, employee, or member of the Tribe), including any failure to perform any of the obligations of the Tribe under this Act.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to alter any liability or other obligation that the United States may have under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(2) TRIBE HELD HARMLESS.—Notwithstanding any other provision of law, the Tribe and the members of the Tribe shall not be liable for any injury, loss, damage, or harm that—

(A) occurs with respect to the MRA; and

(B) is caused by an action or failure to act by the United States, or the officer, agent, or employee of the United States (including the failure to perform any obligation of the United States under this Act).

(g) COOPERATIVE AGREEMENTS.—Nothing in this Act shall alter the authority of the Secretary and the Tribe to enter into any cooperative agreement, including any agreement concerning law enforcement, emergency response, or resource management.

(h) WATER RIGHTS.—Nothing in this Act shall enhance or diminish any water rights of the Tribe, or members of the Tribe, or the United States (with respect to the Park).

(i) ENFORCEMENT.—

(1) ACTIONS BROUGHT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the United States district court for the district in which the MRA is located, to enjoin the Tribe from violating any provision of this Act.

(2) ACTION BROUGHT BY TRIBE.—The Tribe may bring a civil action in the United States district court for the district in which the MRA is located to enjoin the United States from violating any provision of this Act.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Madam Speaker, H.R. 3055 clarifies the long standing rights of the Miccosukee Tribe of Indians of Florida to govern themselves within a small area at the northern edge of Everglades National Park while protecting the Everglades environment and restoration. The bill sets aside 667 acres for the use of the Miccosukee Tribe at the northern edge of the Everglades National Park along the Tamiami Trail where the Miccosukee Tribe currently lives with existing schools, government center, health clinic, police and gas stations, restaurant, many similar buildings, and over 100 homes.

H.R. 3055 represents along protracted series of negotiations between the Tribe and the administration, and the version before us is a true settlement of the issues involving the rights of the Tribe, Everglades National Park, Everglades restoration and clean water concerns.

This bill eliminates ambiguities which lead to unnecessary conflict, while both carrying out the original Congressional intent of the 1934 act that the Indians shall be allowed to remain within the park and protecting the Everglades environment at the same time.

Madam Speaker, I urge my colleagues to support H.R. 3055.

Madam Speaker, I reserve the balance of my time.

Mr. MILLER of California. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 3055. This bill differs in form, but not in substance, from the bill that was reported by the Committee on Resources, and I believe the bill as amended reflects changes agreed to by both the Tribe and the Department.

Madam Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. HASTINGS), who has worked very long and hard on this legislation.

Mr. HASTINGS of Florida. Madam Speaker, I am proud to stand up today and speak on behalf of H.R. 3055, the Miccosukee Reserve Area Act. This is a very important bill which will carry out the long-standing intent of Congress in preserving and protecting the rights of the Miccosukee Tribe of Indians of Florida.

This bill has been truly a bipartisan effort with my Florida colleagues, the gentlewoman from Florida (Mrs. MEEK), the gentleman from Florida (Mr. DIAZ-BALART), the gentleman from Florida (Mr. FOLEY) and the gentleman from Florida (Mr. SCARBOROUGH) joining me as cosponsors. Additionally, the bill now enjoys the support of many other Members of the Florida delegation, and I appreciate their support of this legislation.

I also want to point out, Madam Speaker, how appreciative I am of the gentleman from Utah (Chairman HANSEN). He has been working with me since the 104th Congress to move this bill expeditiously, and I thank the gentleman, as I do the ranking member and their respective staffs, who have worked tirelessly with me and with the United States Senate in trying to bring this matter to a resolution.

Madam Speaker, these Native Americans seek nothing more than what we promised them when we passed the park bill in 1934, nothing more than what was said on the floor of this House, nothing more than the Department of the Interior confirmed in the special use permit.

In 1960, Supreme Court Justice Hugo Black wrote, "Great nations, like great men, should keep their promise." With this bill, we will keep our promise to these Native Americans, to these fellow citizens of the United States. They deserve nothing less. I urge all of our colleagues to support the Miccosukee Reserve Area Act.

Madam Speaker, I am proud to stand up today and speak on behalf of H.R. 3055—The Miccosukee Reserved Area Act. This is a very important bill which will carry out the long-standing intent of Congress in preserving and protecting the rights of the Miccosukee Tribe of Indians of Florida.

This bill has been a truly bipartisan effort, with my Florida colleagues Congresswoman CARRIE MEEK and Congressmen LINCOLN DIAZ-BALART, MARK FOLEY, and JOE SCARBOROUGH joining me as cosponsors. Additionally, the bill now enjoys the support of many other Members of the Florida delegation and I appreciate their support of this legislation. I also want to point out, Madam Speaker, how appreciative I am of Chairman HANSEN. He has been working with me since the 104th Congress to move this bill expediously.

This legislation allows for the good people of the Miccosukee Tribe to live in perpetuity in the so-called permit area of Everglades National Park. The Miccosukees have lived and worked for literally hundreds of years in this area. The rights of the Miccosukees are recognized by the Everglades National Park Enabling Act of 1934 and their special use permit.

In 1934, the Everglades National Park Enabling Act specifically provided that rights of the Indians were protected. Subsequently, in 1962, and 1973, the tribe was guaranteed that they could build homes, schools, clinics, and other tribal buildings in the 300-plus acres identified in their special use permit.

The intent of the Congress in 1934 was to guarantee the Indians the freedom to live,

work, and govern themselves as they wish in this area, not to be governed by the National Park Service. This bill will allow for Miccosukee self-government to continue and prosper.

Madam Speaker, it is important to point out that this bill enjoys not only bipartisan support, but bicameral support as well. A companion bill has been sponsored in the Senate by Senator CONNIE MACK and is supported by Senator BOB GRAHAM. Additionally, we have worked tirelessly with the Administration to garner their support as well. I am pleased that Secretary Babbitt has visited the area at the heart of this bill and that he, too, agrees that it is necessary and worthy legislation. We have worked with the Transportation and Infrastructure Committee to make sure all of their concerns were addressed. In short, Madam Speaker, this has been an inclusive process from the very beginning and because of that we have a substantive, important bill that all sides see as meaningful and necessary.

Finally, Madam Speaker, let me say that I take a great deal of pride in the fact that South Florida's premier environmental organization—Friends of the Everglades—endorses this legislation. It was important to not only have the support of the tribe and the politicians, but also the support of the local environmental community who is most acutely aware of the challenges facing our fragile South Florida ecosystem.

Madam Speaker, these native Americans seek nothing more than what we promised them when we passed the park bill in 1934, nothing more than was said on the floor of this House, nothing more than the Department of the Interior confirmed in the special use permit.

In 1960, Justice Hugo Black wrote, "Great nations, like great men, should keep their promise." With this bill, we keep our promise to these native Americans, to these fellow citizens of the United States.

They deserve nothing less.

I urge all of my colleagues to support The Miccosukee Reserved Area Act.

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

Mr. HANSEN. Madam 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 Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3055, 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 was amended so as to read: "A bill to deem the activities of the Miccosukee Tribe on the Miccosukee Reserved Area to be consistent with the purposes of the Everglades National Park, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3055, as amended.

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

There was no objection.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

Mr. HANSEN. Madam Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and to 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, 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. 2117

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 "Perkins County Rural Water System Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101-294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute Offered by Mr. HANSEN:

Strike out all after the enacting clause and insert:

TITLE I—PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the "Perkins County Rural Water System Act of 1998".

SEC. 102. FINDINGS.

The Congress finds that—

(1) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(2) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation; and

(3) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project.

SEC. 103. DEFINITIONS.

In this title:

(1) FEASIBILITY STUDY.—The term "feasibility study" means the study entitled "Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.", as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 104. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 105. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 106. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system may contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 107. FEDERAL SHARE.

The Federal share under section 104 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 108. NON-FEDERAL SHARE.

The non-Federal share under section 104 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 109. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—At the request of the Perkins County Rural Water System, the Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 104; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

TITLE II—PINE RIVER PROJECT CONVEYANCE ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Pine River Project Conveyance Act".

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "Jurisdictional Map" means the map entitled "Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs" dated March, 1998.

(2) The term "Pine River Project" or the "Project" means Vallecito Dam and Reservoir owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910, 36 Stat. 835; facilities appurtenant to the Dam and Reservoir, including equipment, buildings, and other improvements; lands adjacent to the Dam and Reservoir; easements and rights-of-way necessary for access and all required connections with the Dam and Reservoir, including those for necessary roads; and associated personal property, including contract rights and any and all ownership or property interest in water or water rights.

(3) The term "Repayment Contract" means Repayment Contract #Ilr-1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, and all amendments and additions thereto, including the Act of July 27, 1954 (68 Stat. 534), covering the Pine River Project and certain lands acquired in support of the Vallecito Dam and Reservoir pursuant to which the Pine River Irrigation District has assumed operation and maintenance responsibilities for the dam, reservoir, and water-based recreation in accordance with existing law.

(4) The term "Reclamation" means the Department of the Interior, Bureau of Reclamation.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Southern Ute Indian Tribe" or "Tribe" means a federally recognized Indian tribe, located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(7) The term "Pine River Irrigation District" or "District" means a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the City of Bayfield, La Plata County, Colorado and having an undivided ⅚ right and interest in the use of the water made available by Vallecito Reservoir for the purpose of supplying the lands of the District, pursuant to the Repayment Contract, and the decree in Case No. 1848-B, District Court, Water Division 7, State of Colorado, as well as an undivided ⅚ right and interest in the Pine River Project.

SEC. 203. TRANSFER OF THE PINE RIVER PROJECT.

(a) CONVEYANCE.—The Secretary is authorized to convey, without consideration or compensation to the District, by quitclaim deed or patent, pursuant to section 206, the United States undivided ⅚ right and interest in the Pine River Project under the jurisdiction of Reclamation for the benefit of the Pine River Irrigation District. No partition of the undivided ⅚ right and interest in the Pine River Project shall be permitted from the undivided ⅙ right and interest in the Pine River Project described in subsection (b) and any quitclaim deed or patent evidencing a transfer shall expressly prohibit partitioning. Effective on the date of the conveyance, all obligations between the District and the Bureau of Indian Affairs on the one hand and Reclamation on the other hand, under the Repayment Contract or with respect to the Pine River Project are extinguished. Upon completion of the title transfer, said Repayment Contract shall become null and void. The District shall be responsible for paying 50 percent of all costs associated with the title transfer.

(b) BUREAU OF INDIAN AFFAIRS INTEREST.—At the option of the Tribe, the Secretary is authorized to convey to the Tribe the Bureau of Indian Affairs' undivided ⅙ right and interest in the Pine River Project and the water supply made available by Vallecito Reservoir pursuant to the Memorandum of Understanding between the Bureau of Reclamation and the Office of Indian Affairs dated January 3, 1940, together with its Amendment dated July 9, 1964 ('MOU'), the Repayment Contract and decrees in Case Nos. 1848-B and W-1603-76D, District Court, Water Division 7, State of Colorado. In the event of such conveyance, no consideration or compensation shall be required to be paid to the United States.

(c) FEDERAL DAM USE CHARGE.—Nothing in this title shall relieve the holder of the license issued by the Federal Energy Regulatory Commission under the Federal Power Act for Vallecito Dam in effect on the date of enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the remaining term of the present license. At the expiration of the present license term, the Federal Energy Regulatory Commission shall adjust the charge to reflect either (1) the ⅙ interest of the United States remaining in the Vallecito Dam after conveyance to the District; or (2) if the remaining ⅙ interest of the United States has been conveyed to the Tribe pursuant to subsection (b), then no Federal dam charge shall be levied from the date of expiration of the present license.

SEC. 204. JURISDICTIONAL TRANSFER OF LANDS.

(a) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Pine River Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth in subsection (b) (the "Jurisdictional Transfer"), concurrently with the conveyance described in section 203(a). Except as otherwise shown on the Jurisdictional Map—

(1) for withdrawn lands (approximately 260 acres) lying below the 7,765-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided ⅚ interest to Reclamation and an undivided ⅙ interest to the Bureau of Indian Affairs in trust for the Tribe; and

(2) for Project acquired lands (approximately 230 acres) above the 7,765-foot reservoir water surface elevation level, Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(b) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to subsection (a) shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Commissioner of Reclamation, Department of the Interior, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) ADMINISTRATION.—Following the Jurisdictional Transfer:

(1) All lands that, by reason of the Jurisdictional Transfer, become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C-28259, shall be revoked.

(3) The Forest Service shall issue perpetual easements to the District and the Bureau of

Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Pine River Project.

(4) The undivided ⅚ interest in National Forest System lands that, by reason of the Jurisdictional Transfer is to be administered by Reclamation, shall be conveyed to the District pursuant to section 203(a).

(5) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(6) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(d) VALID EXISTING RIGHTS.—Nothing in this title shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the Jurisdictional Transfer in accordance with subsection (c) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

SEC. 205. LIABILITY.

Effective on the date of the conveyance of the remaining undivided ⅙ right and interest in the Pine River Project to the Tribe pursuant to section 203(b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to such Project, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

SEC. 206. COMPLETION OF CONVEYANCE.

(a) IN GENERAL.—The Secretary's completion of the conveyance under section 203 shall not occur until the following events have been completed:

(1) Compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal and State laws.

(2) The submission of a written statement from the Southern Ute Indian Tribe to the Secretary indicating the Tribe's satisfaction that the Tribe's Indian Trust Assets are protected in the conveyance described in section 203.

(3) Execution of an agreement acceptable to the Secretary which limits the future liability of the United States relative to the operation of the Project.

(4) The submission of a statement by the Secretary to the District, the Bureau of Indian Affairs, and the State of Colorado on the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(5) The development of an agreement between the Bureau of Indian Affairs and the District to prescribe the District's obligation to so operate the Project that the ⅙ rights and interests to the Project and water supply made available by Vallecito Reservoir held by the Bureau of Indian Affairs are protected. Such agreement shall supercede the Memorandum of Agreement referred to in section 203(b) of this Act.

(6) The submission of a plan by the District to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including management for the preservation of public access and recreational values and for the prevention of growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir. Any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(7) The development of a flood control plan by the Secretary of the Army acting through the Corps of Engineers which shall direct the District in the operation of Vallecito Dam for such purposes.

(b) REPORT.—If the transfer authorized in section 203 is not substantially completed within 18 months from the date of enactment of this Act, the Secretary, in coordination with the District, shall promptly provide a report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate on the status of the transfer described in section 203(a), any obstacles to completion of such transfer, and the anticipated date for such transfer.

(c) FUTURE BENEFITS.—Effective upon transfer, the District shall not be entitled to receive any further Reclamation benefits attributable to its status as a Reclamation project pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereto or amendatory thereof.

TITLE III—WELLTON-MOHAWK TRANSFER ACT

SEC. 301. SHORT TITLE.

This title may be referred to as the "Wellton-Mohawk Transfer Act".

SEC. 302. TRANSFER.

The Secretary of the Interior ("Secretary") is authorized to carry out the terms of the Memorandum of Agreement No. 8–AA–34–WAO14 ("Agreement") dated July 10, 1998 between the Secretary and the Wellton-Mohawk Irrigation and Drainage District ("District") providing for the transfer of works, facilities, and lands to the District, including conveyance of Acquired Lands, Public Lands, and Withdrawn Lands, as defined in the Agreement.

SEC. 303. WATER AND POWER CONTRACTS.

Notwithstanding the transfer, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments or supplements thereto or extensions thereof and as provided under section 2 of the Agreement.

SEC. 304. SAVINGS.

Nothing in this title shall affect any obligations under the Colorado River Basin Salinity Control Act (Public Law 93–320, 43 U.S.C. 1571).

SEC. 305. REPORT.

If transfer of works, facilities, and lands pursuant to the Agreement has not occurred by July 1, 2000, the Secretary shall report on the status of the transfer as provided in section 5 of the Agreement.

SEC. 306. AUTHORIZATION

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—SLY PARK DAM AND RESERVOIR, CALIFORNIA

SEC. 401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Conveyance Act".

SEC. 402. DEFINITIONS.

For purposes of this title:

(1) The term "District" means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Project" means all of the right, title, and interest in and to the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and conduits and canals held by the United States pursuant to or related to the authorization in the Act entitled "An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes", approved October 14, 1949 (63 Stat. 852 chapter 690);

SEC. 403. CONVEYANCE OF PROJECT.

(a) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act), the Secretary shall convey the Project to the District.

(b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the District.

SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.

(a) IN GENERAL.—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) FUTURE ALTERATIONS.—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 405).

SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

(a) PAYMENT OBLIGATIONS NOT AFFECTED.—The conveyance of the Project under this title does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.

(b) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the District in accordance with section 403(b) shall extinguish all payment obligations under contract numbered 14-06-200-949IR1 between the District and the Secretary.

SEC. 406. RELATIONSHIP TO OTHER LAWS.

(a) RECLAMATION LAWS.—Except as provided in subsection (b), upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) PAYMENTS INTO THE CENTRAL VALLEY PROJECT RESTORATION FUND.—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this Act. The District's obligation shall be calculated in the same manner as Central Valley Project water contractors.

SEC. 407. LIABILITY.

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

TITLE V—CLEAR CREEK DISTRIBUTION SYSTEM CONVEYANCE

SEC. 501. SHORT TITLE.

This title may be cited as the "Clear Creek Distribution System Conveyance Act".

SEC. 502. DEFINITIONS.

For purposes of this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) DISTRICT.—The term "District" means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) RECLAMATION.—The term "Reclamation" means the United States Bureau of Reclamation.

(4) AGREEMENT.—The term "Agreement" means Agreement No. 8-07-20-L6975 entitled "Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Distribution System to the Clear Creek Community Services District."

(5) DISTRIBUTION SYSTEM.—The term "Distribution System" means that term as defined in the Agreement.

SEC. 503. AUTHORITY TO CONVEY TITLE.

The Secretary is hereby authorized to convey title to the Distribution System consistent with the terms and conditions set forth in the Agreement.

SEC. 504. COMPLIANCE WITH OTHER LAWS.

Following conveyance of title as provided in this title, the District shall comply with all requirements of Federal, California, and local law as may be applicable to non-Federal water distribution systems.

SEC. 505. NATIVE AMERICAN TRUST RESPONSIBILITY.

The Secretary shall ensure that any trust responsibilities to any Native American Tribes that may be affected by the transfer under this title are protected and fulfilled.

SEC. 506. LIABILITY.

Effective on the date of conveyance as provided in this title, the District agrees that it shall hold the United States harmless and shall indemnify the United States for any and all claims, costs, damages, and judgments of any kind arising out of any act, omission, or occurrence relating to the Distribution System, except for such claims, costs, or damages arising from acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance for which the United States is found liable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), provided such acts of negligence exclude all actions related to the installation of the Distribution System and/or prior billing and payment relative to the Distribution System.

SEC. 507. DEAUTHORIZATION.

Effective upon the date of conveyance, the Distribution System is hereby deauthorized as a Federal Reclamation Project facility. Thereafter, the District shall not be entitled to receive any further Reclamation benefits relative to the Distribution System. Such deauthorization shall not affect any of the provisions of the District's existing water service contract with the United States (contract number 14-06-200-489-IR3), as it may be amended or supplemented. Nor shall such deauthorization deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or renewal by entering into a long-term water service contract.

TITLE VI—COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT

SEC. 601. COLUSA BASIN WATERSHED INTEGRATED RESOURCES MANAGEMENT.

(a) SHORT TITLE.—This section may be cited as the "Colusa Basin Watershed Integrated Resources Management Act".

(b) AUTHORIZATION OF ASSISTANCE.—The Secretary of the Interior (in this section referred to as the "Secretary") may provide financial assistance to the Colusa Basin Drainage District, California (in this section referred to as the "District"), for use by the District or by local agencies acting pursuant to section 413 of the State of California statute known as the Colusa Basin Drainage Act (California Stats. 1987, ch. 1399), as in effect on the date of the enactment of this Act (in this section referred to as the "State statute"), for planning, design, environmental compliance, and construction required in carrying out eligible projects in the Colusa Basin Watershed to—

(1)(A) reduce the risk of damage to urban and agricultural areas from flooding or the discharge of drainage water or tailwater;

(B) assist in groundwater recharge efforts to alleviate overdraft and land subsidence; or

(C) construct, restore, or preserve wetland and riparian habitat; and

(2) capture, as an incidental purpose of any of the purposes referred to in paragraph (1), surface or stormwater for conservation, conjunctive use, and increased water supplies.

(c) PROJECT SELECTION.—

(1) ELIGIBLE PROJECTS.—A project shall be an eligible project for purposes of subsection (b) only if it is—

(A) identified in the document entitled "Colusa Basin Water Management Program", dated February 1995; and

(B) carried out in accordance with that document and all environmental documentation requirements that apply to the project under the laws of the United States and the State of California.

(2) COMPATIBILITY REQUIREMENT.—The Secretary shall ensure that projects for which assistance is provided under this section are not inconsistent with watershed protection and environmental restoration efforts being carried out under the authority of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4706 et seq.) or the CALFED Bay-Delta Program.

(d) COST SHARING.—

(1) NON-FEDERAL SHARE.—The Secretary shall require that the District and cooperating non-Federal agencies or organizations pay—

(A) 25 percent of the costs associated with construction of any project carried out with assistance provided under this section; and

(B) 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to such a project.

(2) PLANNING, DESIGN, AND COMPLIANCE ASSISTANCE.—Funds appropriated pursuant to this section may be made available to fund all costs incurred for planning, design, and environmental compliance activities by the District or by local agencies acting pursuant to the State statute, in accordance with agreements with the Secretary.

(3) TREATMENT OF CONTRIBUTIONS.—For purposes of this subsection, the Secretary shall treat the value of lands, interests in lands (including rights-of-way and other easements), and necessary relocations contributed by the District to a project as a payment by the District of the costs of the project.

(e) COSTS NONREIMBURSABLE.—Amounts expended pursuant to this section shall be considered nonreimbursable for purposes of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 371 et seq.), and Acts amendatory thereof and supplemental thereto.

(f) AGREEMENTS.—Funds appropriated pursuant to this section may be made available to the District or a local agency only if the District or local agency, as applicable, has entered into a binding agreement with the Secretary—

(1) under which the District or the local agency is required to pay the non-Federal share of the costs of construction required by subsection (d)(1); and

(2) governing the funding of planning, design, and compliance activities costs under subsection (d)(2).

(g) REIMBURSEMENT.—For project work (including work associated with studies, planning, design, and construction) carried out by the District or by a local agency acting pursuant to the State statute referred to in subsection (b) before the date amounts are provided for the project under this section, the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse the District or the local agency, without interest, an amount equal to the estimated Federal share of the cost of such work under subsection (d).

(h) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements and contracts with the District to assist the Secretary in carrying out the purposes of this section.

(2) SUBCONTRACTING.—Under such cooperative agreements and contracts, the Secretary may authorize the District to manage and let contracts and receive reimbursements, subject to amounts being made available in advance in appropriations Acts, for work carried out under such contracts or subcontracts.

(i) RELATIONSHIP TO RECLAMATION REFORM ACT OF 1982.—Activities carried out, and financial assistance provided, under this section shall not be considered a supplemental or additional benefit for purposes of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390aa et seq.).

(j) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000, plus such additional amount, if any, as may be required by reason of changes in costs of services of the types involved in the District's projects as shown by engineering and other relevant indexes. Sums appropriated under this subsection shall remain available until expended.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. TECHNICAL CORRECTIONS.

(a) REDUCTION OF WAITING PERIOD FOR OBLIGATION OF FUNDS PROVIDED UNDER RECLAMATION SAFETY OF DAMS ACT OF 1978.—Section 5 of the Reclamation Safety of Dams Act of 1978 (92 Stat. 2471; 43 U.S.C. 509) is amended by striking "sixty days" and all that follows through "day certain)" and inserting "30 calendar days".

(b) ALBUQUERQUE METROPOLITAN AREA RECLAMATION AND REUSE PROJECT.—

(1) TECHNICAL CORRECTIONS.—Section 1621 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h–12g) is amended—

(A) by amending the section heading to read as follows:

"SEC. 1621. ALBUQUERQUE METROPOLITAN AREA WATER RECLAMATION AND REUSE PROJECT.";

and

(B) in subsection (a) by striking "Reuse" and all that follows through "reclaim" and inserting "Reuse Project to reclaim".

(2) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by striking the item relating to section 1621 and inserting the following:

"Sec. 1621. Albuquerque Metropolitan Area Water Reclamation and Reuse Project.".

(c) PHOENIX METROPOLITAN WATER RECLAMATION AND REUSE PROJECT.—Section 1608 of the Reclamation Projects Authorization and Adjustment Act of 1992 (106 Stat. 4666; 43 U.S.C. 390h–6) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge, and indirect potable reuse in the Phoenix metropolitan area.";

(2) in subsection (b) by striking the first sentence; and

(3) by striking subsection (c).

(d) REFUND OF CERTAIN AMOUNTS RECEIVED UNDER RECLAMATION REFORM ACT OF 1982.—

(1) REFUND REQUIRED.—Subject to paragraph (2) and the availability of appropriations, the Secretary of the Interior shall refund fully amounts received by the United States as collections under section 224(i) of the Reclamation Reform Act of 1982 (101 Stat. 1330–268; 43 U.S.C. 390ww(i)) for paid bills (including interest collected) issued by the Secretary of the Interior before January 1, 1994, for full-cost charges that were assessed for failure to file certain certification or reporting forms under sections 206 and 224(c) of such Act (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)).

(2) ADMINISTRATIVE FEE.—In the case of a refund of amounts collected in connection with sections 206 and 224(c) of the Reclamation Reform Act of 1982 (96 Stat. 1266, 1272; 43 U.S.C. 390ff, 390ww(c)) with respect to any water year after the 1987 water year, the amount refunded shall be reduced by an administrative fee of $260 for each occurrence.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $3,000,000.

(e) EXTENSION OF PERIODS FOR REPAYMENTS FOR NUECES RIVER RECLAMATION PROJECT AND CANADIAN RIVER RECLAMATION PROJECT, TEXAS.—Section 2 of the Emergency Drought Relief Act of 1996 (Public Law 104–318; 110 Stat. 3862) is amended by adding at the end the following new subsection:

"(c) EXTENSION OF PERIODS FOR REPAYMENT.—Notwithstanding any provision of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.), the Secretary of the Interior—

"(1) shall extend the period for repayment by the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675, relating to the Nueces River reclamation project, Texas, until—

"(A) August 1, 2029, for repayment pursuant to the municipal and industrial water supply benefits portion of the contract; and

"(B) until August 1, 2044, for repayment pursuant to the fish and wildlife and recreation benefits portion of the contract; and

"(2) shall extend the period for repayment by the Canadian River Municipal Water Authority under contract No. 14–06–500–485, relating to the Canadian River reclamation project, Texas, until October 1, 2021.".

(f) SOLANO PROJECT WATER.—

(1) AUTHORIZATION.—The Secretary of the Interior is authorized to enter into contracts with the Solano County Water Agency, or any of its member unit contractors for water from the Solano Project, California, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for—

(A) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using any facilities associated with the Solano Project, California, and

(B) the exchange of water among Solano Project contractors, for the purposes set forth in subparagraph (A), using facilities associated with the Solano Project, California.

(2) LIMITATION.—The authorization under paragraph (1) shall be limited to the use of that portion of the Solano Project facilities downstream of Mile 26 of the Putah South Canal (as that canal is depicted on the official maps of the Bureau of Reclamation), which is below the diversion points on the Putah South Canal utilized by the city of Fairfield for delivery of Solano Project water.

(g) FISH PASSAGE AND PROTECTIVE FACILITIES, ROGUE RIVER BASIN, OREGON.—The Secretary of the Interior is authorized to use otherwise available amounts to provide up to $2,000,000 in financial assistance to the Medford Irrigation District and the Rogue River Valley Irrigation District for the design and construction of fish passage and protective facilities at North Fork Little Butte Creek Diversion Dam and South Fork Little Butte Creek Diversion Dam in the Rogue River basin, Oregon, if the Secretary determines in writing that these facilities will enhance the fish recovery efforts currently underway at the Rogue River Basin Project, Oregon.

(h) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to abrogate or affect any obligation of the United States under section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

SEC. 702. DICKENSON, NORTH DAKOTA.

The Secretary of the Interior shall waive the scheduled annual payments for fiscal years 1998 and 1999 under section 208 of the Energy and Water Development Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-118).

Mr. HANSEN (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

Mr. MILLER of California. Madam Speaker, S. 2117 as amended authorizes a number of relatively small but important provisions affecting water resource projects and management in the Western United States. The bill authorizes construction of a rural water system in South Dakota, transfers ownership of several Bureau of Reclamation projects to local water districts, authorizes several small projects in the Colusa Basin of California, and provides financial assistance for construction of water reuse projects in Phoenix and Albuquerque. The bill also allows the City of Vallejo, California to use the water conveyance facilities of the Bureau of Reclamation's Solano Project.

While I will not object to passage of this legislation, I will note that some of the Reclamation project transfers included in S. 2117 remain problematic. In particular, serious environmental issues have been raised regarding future management of the Wellton-Mohawk Division of the Gila Project and the Sly Park Unit of the Central Valley Project. The Bureau of Reclamation must work to determine the conditions for transferring these projects that will preserve the public benefits and avoid environmental damage from future project operations.

The amendment in the nature of a substitute was agreed to.

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.

APPROVING A GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND POLAND

Mr. HANSEN. Madam Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the bill (H.R. 3461) to approve a governing international fishery agreement between the United States and the Republic of Poland, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 3461

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

SECTION 1. GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH POLAND.

Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823), the governing

international fishery agreement between the Government of the United States of America and the Government of the Republic of Poland, as contained in the message to Congress from the President of the United States dated February 5, 1998, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute Offered by Mr. HANSEN:

Strike out all after the enacting clause and insert:

TITLE I—GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH POLAND

SEC. 101. GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH POLAND.

Notwithstanding section 203 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Poland, as contained in the message to Congress from the President of the United States dated February 5, 1998, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

TITLE II—MISCELLANEOUS FISHERIES PROVISIONS

SEC. 201. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

(a) REAUTHORIZATION.—Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking "for each of" and all that follows through the end of the sentence and inserting "for each fiscal year through fiscal year 2001.".

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—The Northwest Atlantic Fisheries Convention Act of 1995 is further amended—

(1) in section 207(e) (16 U.S.C. 5606(e)), by striking "sections" and inserting "section";

(2) in section 209(c) (16 U.S.C. 5608(c)), by striking "chapter 17" and inserting "chapter 171"; and

(3) in section 210(6) (16 U.S.C. 5609(6)), by striking "the Magnuson Fishery" and inserting "the Magnuson-Stevens Fishery".

(c) REPORT REQUIREMENT.—The Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 201 et seq.) is further amended by adding at the end the following:

"SEC. 212. ANNUAL REPORT.

"The Secretary shall annually report to the Congress on the activities of the Fisheries Commission, the General Council, the Scientific Council, and the consultative committee established under section 208.".

(d) NORTH ATLANTIC FISHERIES ORGANIZATION QUOTA ALLOCATION PRACTICE.—The Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 201 et seq.) is further amended by adding at the end the following:

"SEC. 213. QUOTA ALLOCATION PRACTICE.

"(a) IN GENERAL.—The Secretary of Commerce, acting through the Secretary of State, shall promptly seek to establish a new practice for allocating quotas under the Convention that—

"(1) is predictable and transparent;

"(2) provides fishing opportunities for all members of the Organization; and

"(3) is consistent with the Straddling Fish Stocks Agreement.

"(b) REPORT.—The Secretary of Commerce shall include in annual reports under section 212—

"(1) a description of the results of negotiations held pursuant to subsection (a);

"(2) an identification of barriers to achieving such a new allocation practice; and

"(3) recommendations for any further legislation that is necessary to achieve such a new practice.

"(c) DEFINITION.—In this section the term 'Straddling Fish Stocks Agreement' means the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.".

SEC. 202. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

(a) REAUTHORIZATION.—Section 10(4) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h(4)) is amended by striking "For fiscal year 1998," and inserting "For each of fiscal years 1998, 1999, 2000, and 2001,".

(b) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) The Atlantic Tunas Convention Act of 1975 is further amended—

(A) in section 2 (16 U.S.C. 971), by redesignating the second paragraph (4) as paragraph (5);

(B) in section 5(b) (16 U.S.C. 971c(b)), by striking "fisheries zone" and inserting "exclusive economic zone";

(C) in section 6(c)(6) (16 U.S.C. 971d(c)(6))—

(i) by designating the last sentence as subparagraph (B), and by indenting the first line thereof; and

(ii) in subparagraph (A)(iii), by striking "subparagraph (A)" and inserting "clause (i)";

(D) by redesignating the first section 11 (16 U.S.C. 971 note) as section 13, and moving that section so as to appear after section 12 of that Act;

(E) by amending the style of the heading and designation for each of sections 11 and 12 so as to conform to the style of the headings and designations of the other sections of that Act; and

(F) by striking "Magnuson Fishery" each place it appears and inserting "Magnuson-Stevens Fishery".

(2) Section 3(b)(3)(B) of the Act of September 4, 1980 (Public Law 96-339; 16 U.S.C. 971i(b)(3)(B)), is amended by inserting "of 1975" after "Act".

SEC. 203. AUTHORITY OF STATES OF WASHINGTON, OREGON, AND CALIFORNIA TO MANAGE DUNGENESS CRAB FISHERY.

(a) IN GENERAL.—Subject to the provisions of this section and notwithstanding section 306(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856(a)), each of the States of Washington, Oregon, and California may adopt and enforce State laws and regulations governing fishing and processing in the exclusive economic zone adjacent to that State in any Dungeness crab (Cancer magister) fishery for which there is no fishery management plan in effect under that Act.

(b) REQUIREMENTS FOR STATE MANAGEMENT.—Any law or regulation adopted by a State under this section for a Dungeness crab fishery—

(1) except as provided in paragraph (2), shall apply equally to vessels engaged in the fishery in the exclusive economic zone and vessels engaged in the fishery in the waters of the State, and without regard to the State that issued the permit under which a vessel is operating;

(2) shall not apply to any fishing by a vessel in exercise of tribal treaty rights except as provide in United States v. Washington, D.C. No. CV-70-09213, United States District Court for the Western District of Washington; and

(3) shall include any provisions necessary to implement tribal treaty rights pursuant to the decision in United States v. Washington, D.C. No. CV-70-09213.

(c) LIMITATION ON ENFORCEMENT OF STATE LIMITED ACCESS SYSTEMS.—Any law of the State of Washington, Oregon, or California that establishes or implements a limited access system for a Dungeness crab fishery may not be enforced against a vessel that is otherwise legally fishing in the exclusive economic zone adjacent to that State and that is not registered under the laws of that State, except a law regulating landings.

(d) STATE PERMIT OR TREATY RIGHT REQUIRED.—No vessel may harvest or process Dungeness crab in the exclusive economic zone adjacent to the State of Washington, Oregon, or California, except as authorized by a permit issued by any of those States or pursuant to any tribal treaty rights to Dungeness crab pursuant to the decision in United States v. Washington, D.C. No. CV-70-09213.

(e) STATE AUTHORITY OTHERWISE PRESERVED.—Except as expressly provided in this section, nothing in this section reduces the authority of any State under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to regulate fishing, fish processing, or landing of fish.

(f) TERMINATION OF AUTHORITY.—The authority of the States of Washington, Oregon, and California under this section with respect to a Dungeness crab fishery shall expire on the effective date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act.

(g) REPEAL.—Section 112(d) of Public Law 104-297 (16 U.S.C. 1856 note) is repealed.

(h) DEFINITIONS.—The definitions set forth in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) shall apply to this section.

(i) SUNSET.—This section shall have no force or effect on and after September 30, 2001.

TITLE III—NOAA HYDROGRAPHIC SERVICES

SEC. 301. SHORT TITLE.

This title may be cited as the "Hydrographic Services Improvement Act of 1998".

SEC. 302. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(2) ADMINISTRATION.—The term "Administration" means the National Oceanic and Atmospheric Administration.

(3) HYDROGRAPHIC DATA.—The term "hydrographic data" means information acquired through hydrographic or bathymetric surveying, photogrammetry, geodetic measurements, tide and current observations, or other methods, that is used in providing hydrographic services.

(4) HYDROGRAPHIC SERVICES.—The term "hydrographic services" means—

(A) the management, maintenance, interpretation, certification, and dissemination of

bathymetric, hydrographic, geodetic, and tide and current information, including the production of nautical charts, nautical information databases, and other products derived from hydrographic data;

(B) the development of nautical information systems; and

(C) related activities.

(5) ACT OF 1947.—The term "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

SEC. 303. FUNCTIONS OF THE ADMINISTRATOR.

(a) RESPONSIBILITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947, the Administrator shall—

(1) acquire and disseminate hydrographic data;

(2) promulgate standards for hydrographic data used by the Administration in providing hydrographic services;

(3) promulgate standards for hydrographic services provided by the Administration;

(4) ensure comprehensive geographic coverage of hydrographic services, in cooperation with other appropriate Federal agencies;

(5) maintain a national database of hydrographic data, in cooperation with other appropriate Federal agencies;

(6) provide hydrographic services in uniform, easily accessible formats;

(7) participate in the development of, and implement for the United States in cooperation with other appropriate Federal agencies, international standards for hydrographic data and hydrographic services; and

(8) to the greatest extent practicable and cost-effective, fulfill the requirements of paragraphs (1) and (6) through contracts or other agreements with private sector entities.

(b) AUTHORITIES.—To fulfill the data gathering and dissemination duties of the Administration under the Act of 1947, and subject to the availability of appropriations, the Administrator—

(1) may procure, lease, evaluate, test, develop, and operate vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services;

(2) may enter into contracts and other agreements with qualified entities, consistent with subsection (a)(8), for the acquisition of hydrographic data and the provision of hydrographic services;

(3) shall award contracts for the acquisition of hydrographic data in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.); and

(4) may design and install where appropriate Physical Oceanographic Real-Time Systems to enhance navigation safety and efficiency.

SEC. 304. QUALITY ASSURANCE PROGRAM.

(a) DEFINITION.—For purposes of this section, the term "hydrographic product" means any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data.

(b) PROGRAM.—

(1) IN GENERAL.—The Administrator may—

(A) develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3);

(B) authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

(C) charge a fee for such certification and use.

(2) LIMITATION ON FEE AMOUNT.—Any fee under paragraph (1)(C) shall not exceed the costs of conducting the quality assurance testing, evaluation, or studies necessary to determine whether the hydrographic product satisfies the standards adopted under section 303(a)(3), including the cost of administering such a program.

(c) LIMITATION ON LIABILITY.—The Government of the United States shall not be liable for any negligence by a person that produces hydrographic products certified under this section.

(d) HYDROGRAPHIC SERVICES ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the Hydrographic Services Account.

(2) CONTENT.—The account shall consist of—

(A) amounts received by the United States as fees charged under subsection (b)(1)(C); and

(B) such other amounts as may be provided by law.

(3) USE.—Amounts in the account shall be available to the Administrator, without further appropriation, for hydrographic services.

(e) LIMITATION ON NEW FEES AND INCREASES IN EXISTING FEES FOR HYDROGRAPHIC SERVICES.—After the date of the enactment of this Act, the Administrator may not—

(1) establish any fee or other charge for the provision of any hydrographic service except as authorized by this section; or

(2) increase the amount of any fee or other charge for the provision of any hydrographic service except as authorized by this section and section 1307 of title 44, United States Code.

SEC. 305. REPORTS.

(a) PHOTOGRAMMETRY AND REMOTE SENSING.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall report to the Congress on a plan to increase, consistent with this title, contracting with the private sector for photogrammetric and remote sensing services related to hydrographic data acquisition or hydrographic services. In preparing the report, the Administrator shall consult with private sector entities knowledgeable in photogrammetry and remote sensing.

(2) CONTENTS.—The report shall include the following:

(A) An assessment of which of the photogrammetric and remote sensing services related to hydrographic data acquisition or hydrographic services performed by the National Ocean Service can be performed adequately by private-sector entities.

(B) An evaluation of the relative cost-effectiveness of the Federal Government and private-sector entities in performing those services.

(C) A plan for increasing the use of contracts with private-sector entities in performing those services, with the goal of obtaining performance of 50 percent of those services through contracts with private-sector entities by fiscal year 2003.

(b) PORTS.—Not later than 6 months after the date of enactment of this Act, the Administrator and the Commandant of the Coast Guard shall report to the Congress on—

(1) the status of implementation of real-time tide and current data systems in United States ports;

(2) existing safety and efficiency needs in United States ports that could be met by increased use of those systems; and

(3) a plan for expanding those systems to meet those needs, including an estimate of the cost of implementing those systems in priority locations.

(c) MAINTAINING FEDERAL EXPERTISE IN HYDROGRAPHIC SERVICES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall report to the Congress on a plan to ensure that Federal competence and expertise in hydrographic surveying will be maintained after the decommissioning of the 3 existing Administration hydrographic survey vessels.

(2) CONTENTS.—The report shall include—

(A) an evaluation of the seagoing capacity, personnel, and equipment necessary to maintain Federal expertise in hydrographic services;

(B) an estimated schedule for decommissioning the 3 existing survey vessels;

(C) a plan to maintain Federal expertise in hydrographic services after the decommissioning of these vessels; and

(D) an estimate of the cost of carrying out this plan.

(d) UNITED STATES IMPLEMENTATION OF ELECTRONIC NAUTICAL CHARTS.—Not later than 6 months after the date of enactment of this Act, the Administrator shall report to the Congress on the status of implementation by the United States of electronic nautical charts. The report shall address, at a minimum—

(1) the role of the private sector, and the potential for the Administration to employ partnerships or other arrangements with the private sector, in domestic and international development and implementation of electronic nautical chart technology;

(2) the effects of private sector participation in the development and implementation of electronic nautical chart technology on public safety and the continued ability of the Federal Government to assume liability for United States nautical charts; and

(3) the range of alternative means by which the Administration can effectively and efficiently make electronic nautical chart data available to the private sector and the general public, including an evaluation of relative costs and advantages or disadvantages of each such alternative.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator the following:

(1) To carry out nautical mapping and charting functions under the Act of 1947 and sections 303 and 304, except for conducting hydrographic surveys, $33,000,000 for fiscal year 1999, $34,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, and $36,000,000 for fiscal year 2002.

(2) To conduct hydrographic surveys under section 303(a)(1), including leasing of ships, $33,000,000 for fiscal year 1999, $35,000,000 for fiscal year 2000, $37,000,000 for fiscal year 2001, and $39,000,000 for fiscal year 2002. Of these amounts, no more than $15,000,000 is authorized for any one fiscal year to operate hydrographic survey vessels owned and operated by the Administration.

(3) To carry out geodetic functions under the Act of 1947, $20,000,000 for fiscal year 1999, and $22,000,000 for each of fiscal years 2000, 2001, and 2002.

(4) To carry out tide and current measurement functions under the Act of 1947,

$22,500,000 for each of fiscal years 1999 through 2002. Of these amounts, $3,500,000 is authorized for each fiscal year to implement and operate a national quality control system for real-time tide and current data, and $7,250,000 is authorized for each fiscal year to design and install real-time tide and current data measurement systems under section 303(b)(4).

SEC. 307. AUTHORIZED NUMBER OF NOAA CORPS COMMISSIONED OFFICERS.

(a) AUTHORIZED NUMBER.—Section 2 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a) is amended—

(1) by redesignating subsections (a) through (e) as subsections (b) through (f), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

"(a)(1) Except as provided as in paragraph (2), there are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration for fiscal years 1999, 2000, 2001, 2002, and 2003.

"(2) The Administrator may reduce the number of commissioned officers on the active list below 264 if the Administrator determines that it is appropriate, taking into consideration—

"(A) the number of billets on the fisheries, hydrographic, and oceanographic vessels owned and operated by the Administration;

"(B) the need of the Administration to collect high-quality oceanographic, fisheries, and hydrographic data and information on a continuing basis;

"(C) the need for effective and safe operation of the Administration's fisheries, hydrographic and oceanographic vessels;

"(D) the need for effective management of the commissioned Corps; and

"(E) the protection of the interests of taxpayers.

"(3) At least 90 days before beginning any reduction as described in paragraph (2), the Administrator shall provide notice of such reduction to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Resources of the House of Representatives.".

(b) OFFICER RESPONSIBLE FOR COMMISSIONED OFFICERS AND VESSEL FLEET.—Section 24(a) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853u(a)) is amended by inserting "One such position shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel fleet, of the Administration." before "An officer".

(c) RELIEF FROM MORATORIUM ON NEW APPOINTMENTS.—The Secretary of Commerce immediately shall terminate the moratorium on new appointments of commissioned officers to the National Oceanic and Atmospheric Administration Corps.

TITLE IV—NORTHWEST STRAITS MARINE CONSERVATION INITIATIVE

SEC. 401. SHORT TITLE.

This title may be cited as the "Northwest Straits Marine Conservation Initiative Act".

SEC. 402. ESTABLISHMENT.

There is established a commission to be known as the Northwest Straits Advisory Commission (in this title referred to as the "Commission").

SEC. 403. ORGANIZATION AND OPERATION.

The Commission shall be organized and operated in accordance with the provisions of the Northwest Straits Citizen's Advisory Commission Report of August 20, 1998, on file with the Secretary of Commerce (in this title referred to as the "Report").

SEC. 404. FUNDING.

(a) IN GENERAL.—The Secretary of Commerce may, from amounts available to the Secretary to carry out the work of the Commission, provide assistance for use in accordance with the Report and the priorities of the Commission—

(1) to collect marine resources data in the Northwest Straits;

(2) to coordinate Federal, state and local marine resources protection and restoration activities in the Northwest Straits; and

(3) to carry out other activities identified in the Report as important to the protection and restoration of marine resources in the Northwest Straits.

(b) PROVISION.—The Secretary may provide the assistance authorized by subsection (a) through the Director of the Padilla Bay National Estuarine Research Reserve, unless the Governor of the State of Washington objects. If the Governor objects, then the Secretary may provide the assistance though the Administrator of the National Oceanic and Atmospheric Administration.

SEC. 405. LIMITATION.

Nothing in this title provides the Commission with the authority to implement any Federal law or regulation.

Mr. HANSEN (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

Mr. MILLER of California. Madam Speaker, I rise in support of the bill.

H.R. 3461 consolidates numerous fisheries and marine conservation bills that have been passed by the Resources Committee and, in many cases, the full House without controversy.

It includes a number of fisheries bills that will improve fisheries management and conservation on both the east and west coasts. It includes a provision to create a public private partnership to improve the quality of our Nation's nautical charts, and in turn improve the safety of navigation and marine environmental protection. It also includes a provision to help local communities in the Puget Sound improve the conservation of their marine resources.

In closing, this is a good bill that is supported by Members from both sides of the aisle, and I am pleased to support its passage today.

Mr. METCALF. Madam Speaker, I rise today in support of this legislation, which includes the Northwest Straits Marine Conservation Initiative Act. This act is a bottom up, local control approach to managing and protecting the waters of northern Puget Sound.

I would like to thank Chairman, YOUNG, Chairman SAXTON, and Mr. MILLER, and their staffs for their cooperation and assistance, and I appreciate their efforts in bringing this landmark legislation to the floor.

I introduced legislation authorizing this act which reflects genuine cooperation between stakeholders spanning the spectrum of interests. Senator MURRAY has also introduced identical legislation in the U.S. Senate. This act represents citizen involvement, strong support from State, local, and the Federal Government; bipartisanship; and conservationists working constructively with industry and property rights advocates—I think this symbolizes an achievement of something not-much-short of a miracle.

I welcomed the opportunity to form the Northwest Straits Advisory Commission with Senator PATTY MURRAY, and I am very pleased with the spirit of cooperation that has led to producing this act. This legislation will help reverse the degradation of the marine ecosystem of the Northwest Straits by encouraging and supporting the concerns, initiative, and capabilities of the people of the Puget Sound and their local governments. It will also foster improved resource protection, preservation of commercial values and diverse ways of life. This will happen with the full cooperation of tribes, additional research, education, and interpretation and maximum cooperation by all Federal agencies along with State and local governments.

For years, the debate over the National Marine Sanctuary in Puget Sound was conducted with growing acrimony. In fact, the public discourse nearly broke down altogether. I was happy to share with Senator MURRAY appreciation for another model, the San Juan County Marine Resource Committee, (MRC). The San Juan MRC is a citizen group empowered by that county to increase voluntary environmental protections, focus public attention on marine issues, and to aid in coordination of existing agencies with jurisdiction in the area. The San Juan MRC is an example of local citizens convening from various view points, rolling up their sleeves, and doing the work of environmental protection around the beautiful San Juan Islands.

And that model of cooperation, communication, and working together, had to be the point of departure for our task of better protecting the magnificent northern Puget Sound. The Northwest Straits Marine Conservation Initiative Act centers on the formation of seven MRC's, one from each county affected, and would in turn participate in a regional panel, which would focus on scientific priorities, and coordinate research and educational activities throughout the region. The commission would be composed of local, State, and tribal appointees, and would hold no regulatory power.

There are a number of benchmarks for specific performance in the legislation that will be used as goals, including establishment of marine protected areas, restoration of habitat, and reopening of areas for shellfish harvest, among others. The Northwest Straits Commission and MRC's would be required to prepare annual reports for public review, culminating in an extensive independent scientific review after five years. The Commission's work will continue only if it is apparent its work is making a difference.

So I applaud the grassroots, "bottom-up" approach adopted by the Commission in its report. I also salute the commitment of NOAA, the Puget Sound Water Quality Action Team, tribal governments, and other State and Federal agencies to work with the Northwest Straits Advisory Commission—to highlight the problems of this region, help focus and coordinate scientific research, and to better use the

authority already existent to save this treasure for our grandchildren.

Finally, I want to thank each one of the commission members who gave so much time out of their busy lives to make this happen, as well as all the specialists, technical support people, and local government officials who made themselves available for this endeavor. The members of the Northwest Marine Straits Commission include: Kathy Fletcher—People for the Puget Sound, Harry Hutchinson—Steamship Operators, Don Charnley—former State Senator, Dr. David Fluharty—U.W. School of Fisheries, Doug Scott—Friends of the San Juans, Brian Calvert—Chair, San Juan County Marine Resource Council, Dr. Dennis Willows—U.W. Friday Harbor Lab., Jim Darling—Executive Director, Port of Bellingham, Cheryl Hymes—former State Legislator, Terry Williams—Tulalip Tribes Natural Resources, Don Hopkins—Port Commissioner, Port of Everett and the Longshoremen union, Mac McDowell—Island County Commissioner, Andy Palmer, Jefferson County conservationist—formerly Center for Marine Conservation, Dwain Colby—former Island County Commissioner, and Phil Kitchell—Clallam County Commissioner. I urge support for this act, a truly bipartisan, local consensus approach to protecting a national environmental treasure.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to approve a governing international fishery agreement between the United States and the Republic of Poland, and for other purposes."

A motion to reconsider was laid on the table.

FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1998

Mr. HANSEN. Madam Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 744) 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, 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. 744

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 "Fall River Water Users District Rural Water System Act of 1998".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term "engineering report" means the study entitled "Supplemental Preliminary Engineering Report for Fall River Water Users District" published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) WATER SUPPLY SYSTEM.—The term "water supply system" means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power

supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 70 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 30 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Director of the Bureau of Reclamation may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

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.

OREGON PUBLIC LANDS TRANSFER AND PROTECTION ACT OF 1998

Mr. HANSEN. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4326) to transfer administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 4326

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 "Oregon Public Lands Transfer and Protection 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—ROGUE RIVER NATIONAL FOREST TRANSFERS

Sec. 101. Land transfers involving Rogue River National Forest and other public lands in Oregon.

TITLE II—PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LANDS

Sec. 201. Definitions.
Sec. 202. No net loss of O&C lands, CBWR lands, and public domain lands.
Sec. 203. Modifications to sales authority.
Sec. 204. Modifications to exchange authority.
Sec. 205. Administration of lands acquired in geographic area; redesignation of public domain lands.
Sec. 206. Relationship to Umpqua land exchange authority.

TITLE I—ROGUE RIVER NATIONAL FOREST TRANSFERS

SEC. 101. LAND TRANSFERS INVOLVING ROGUE RIVER NATIONAL FOREST AND OTHER PUBLIC LANDS IN OREGON.

(a) TRANSFER FROM PUBLIC DOMAIN TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The public domain lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 2,058 acres within the external boundaries of Rogue River National Forest in the State of Oregon are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(b) TRANSFER FROM NATIONAL FOREST TO PUBLIC DOMAIN.—

(1) LAND TRANSFER.—The Federal lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 1,632 acres within the external boundaries of Rogue River National Forest, are hereby transferred to unreserved public domain status, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the laws, rules, and regulations applicable to unreserved public domain lands.

(c) RESTORATION OF STATUS OF CERTAIN NATIONAL FOREST LANDS AS REVESTED RAILROAD GRANT LANDS.—

(1) RESTORATION OF EARLIER STATUS.—The Federal lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 4,298 acres within the external boundaries of Rogue River National Forest, are hereby restored to the status of revested Oregon and California Railroad grant lands, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), and other laws, rules, and regulations applicable to revested Oregon and California Railroad grant lands under the administrative jurisdiction of the Secretary of the Interior.

(d) ADDITION OF CERTAIN REVESTED RAILROAD GRANT LANDS TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The revested Oregon and California Railroad grant lands depicted on the map entitled "BLM/Rogue River N.F. Administrative Jurisdiction Transfer" and dated April 28, 1998, consisting of approximately 960 acres within the external boundaries of Rogue River National Forest, are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of the Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(3) DISTRIBUTION OF RECEIPTS.—Notwithstanding the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), revenues derived from the lands described in paragraph (1) shall be distributed in accordance with the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(e) BOUNDARY ADJUSTMENT.—The boundaries of Rogue River National Forest are hereby adjusted to encompass the lands transferred to the administrative jurisdiction of the Secretary of Agriculture under this section and to exclude private property interests adjacent to the exterior boundaries of Rogue River National Forest, as depicted on the map entitled "Rogue River National Forest Boundary Adjustment" and dated April 28, 1998.

(f) MAPS.—Within 60 days after the date of the enactment of this Act, the maps referred

to in this section shall be available for public inspection in the office of the Chief of the Forest Service.

(g) MISCELLANEOUS REQUIREMENTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall revise the public land records relating to the lands transferred under this section to reflect the administrative, boundary, and other changes made by this section. The Secretaries shall publish in the Federal Register appropriate notice to the public of the changes in administrative jurisdiction made by this section with regard to lands described in this section.

TITLE II—PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LANDS

SEC. 201. DEFINITIONS.

For purposes of this title:

(1) O&C LANDS.—The term "O&C lands" means the lands that—

(A) revested in the United States under the Act of June 9, 1916 (Chapter 137; 39 Stat. 218), commonly known as Oregon and California Railroad grant lands; and

(B) are managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) CBWR LANDS.—The term "CBWR lands" means the lands that—

(A) were reconveyed to the United States under the Act of February 26, 1919 (Chapter 47; 40 Stat. 1179), commonly known as Coos Bay Wagon Road grant lands; and

(B) are managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) PUBLIC DOMAIN LANDS.—The term "public domain lands" has the meaning given the term "public lands" in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), except that the term does not include O&C lands and CBWR lands.

(4) GEOGRAPHIC AREA.—The term "geographic area" means all lands in the State of Oregon located within the boundaries of the Bureau of Land Management's Medford District, Roseburg District, Eugene District, Salem District, Coos Bay District, and Klamath Resource Area of the Lakeview District, as those districts and that resource area were constituted on January 1, 1998.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) TIMBERLANDS.—The term "timberlands" means lands identified as timberlands in any land use plan under the Federal Land Policy and Management Act of 1976 (16 U.S.C. 1701–1782).

SEC. 202. NO NET LOSS OF O&C LANDS, CBWR LANDS, AND PUBLIC DOMAIN LANDS.

In carrying out sales, purchases, and exchanges of lands located in the geographic area, the Secretary shall ensure that upon the expiration of the 10-year period beginning on the date of the enactment of this Act, and of each 10-year period thereafter, the total number of acres of O&C lands and CBWR lands in the geographic area, and the total number of acres of O&C lands, CBWR lands, and public domain lands in the geographic area that are available for timber harvesting, are not less than the number of acres of such lands on the date of the enactment of this Act.

SEC. 203. MODIFICATIONS TO SALES AUTHORITY.

(a) LIMITATION ON LANDS TO BE SOLD.—Notwithstanding any other sales authority of the Secretary, the Secretary may not sell any O&C lands, CBWR lands, or public domain lands within the geographic area that are located within—

(1) a congressionally designated wilderness area;

(2) the national wild and scenic river system; or

(3) an area designated by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) to be an area of critical environmental concern.

(b) PRICE; PROCEDURES.—Notwithstanding any other sales authority of the Secretary, the Secretary shall make all sales of O&C lands, CBWR lands, public domain lands within the geographic area—

(1) at a price that is not less than the fair market value of the lands sold, as determined by the Secretary; and

(2) by competitive public bidding, under procedures established by the Secretary that ensure adequate notice to owners of land adjoining the land proposed for sale, to local governments in the vicinity of the land proposed for sale, and to the State of Oregon.

SEC. 204. MODIFICATIONS TO EXCHANGE AUTHORITY.

(a) LIMITATION ON FEDERAL LANDS TO BE EXCHANGED.—Notwithstanding any other exchange authority of the Secretary, the Secretary may not exchange out of Federal ownership any O&C lands, CBWR lands, or public domain lands within the geographic area that are located within—

(1) a congressionally designated wilderness area;

(2) the national wild and scenic river system; or

(3) an area designated by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) to be an area of critical environmental concern.

(b) LIMITATION ON NON-FEDERAL LANDS ACQUIRED.—Notwithstanding any other exchange authority of the Secretary, all non-Federal lands acquired by the Secretary in an exchange for O&C lands, CBWR lands, or public domain lands within the geographic area must be located within the geographic area.

(c) PROCEDURES.—The Secretary shall establish procedures for exchanges out of Federal ownership of O&C lands, CBWR lands, and public domain lands within the geographic area, including—

(1) procedures for valuing the lands exchanged; and

(2) procedures that ensure adequate notice of proposed exchanges to local governments in the vicinity of all lands to be exchanged and to the State of Oregon.

(d) REQUIREMENTS FOR VALUE OF EXCHANGED LANDS.—Notwithstanding any other exchange authority of the Secretary, the Secretary may not exchange out of Federal ownership O&C lands, CBWR lands, or public domain lands within the geographic area if the fair market value of the lands received by the United States in the exchange—

(1) is less than 75 percent of the fair market value of the lands conveyed by the United States in the exchange; or

(2) is greater than 125 percent of the fair market value of the lands conveyed by the United States in the exchange.

(e) EQUALIZATION PAYMENTS.—The Secretary, as necessary to ensure that the total value received by the United States in an exchange out of Federal ownership of O&C lands, CBWR lands, or public domain lands within the geographic area is equal to the total value conveyed by the United States in the exchange, shall—

(1) use otherwise available amounts to pay, to the person from whom lands are acquired by the United States in the exchange, the difference between the value of the lands received by the United States and the value of the lands conveyed by the United States; or

(2) require that person to pay that difference to the United States.

SEC. 205. ADMINISTRATION OF LANDS ACQUIRED IN GEOGRAPHIC AREA; REDESIGNATION OF PUBLIC DOMAIN LANDS.

(a) ACQUIRED LANDS.—All lands in the geographic area acquired by the United States and managed by the Secretary through the Bureau of Land Management after the date of the enactment of this Act shall for all purposes have the same status, be administered, and be otherwise treated as O&C lands.

(b) REDESIGNATION OF PUBLIC DOMAIN LANDS FOR TREATMENT AS REVESTED LANDS.—

(1) LANDS DESIGNATED.—Not later than September 30, 1999, the Secretary shall—

(A) designate, for treatment as O&C lands under paragraph (2), all public domain lands in the geographic area that, on the date of the enactment of this Act, are timberlands; and

(B) notify the Congress of that designation.

(2) TREATMENT OF REDESIGNATED LANDS.—Lands designated by the Secretary under paragraph (1) shall for all purposes have the same status, be administered, and be otherwise treated as O&C lands.

(3) REVENUE DISTRIBUTION.—(A) Notwithstanding paragraphs (1) and (2), revenues that are produced on or before September 30, 2003, on lands designated by the Secretary under paragraph (1) shall be distributed according to provisions of law in effect immediately before the enactment of this Act.

(B) Notwithstanding paragraphs (1) and (2), revenues that are produced after September 30, 2003, on lands designated by the Secretary under paragraph (1) and that are available to counties pursuant to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), shall be disbursed to the Association of Oregon and California Land Grant Counties, for redistribution, after deducting a reasonable sum for costs of administration, as follows:

(i) 92 percent shall be redistributed to counties entitled to payments under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), in the same proportion as other payments under that Act.

(ii) 8 percent shall be redistributed to counties entitled to payments under section 3 of the Act of July 31, 1947 (chapter 4306; 30 U.S.C. 603), and the fifth proposition of section 4 of the Act of February 14, 1859 (chapter XXXIII; 11 Stat. 383), in the same proportion as other payments under those provisions.

SEC. 206. RELATIONSHIP TO UMPQUA LAND EXCHANGE AUTHORITY.

Notwithstanding any other provision of this title, this title shall not apply to exchanges of land authorized pursuant to section 1028 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4231), or any implementing legislation or administrative rule, if the land exchanges are consistent with the provisions set forth in the Memorandum of Understanding between the Umpqua Land Exchange Project and the Association of Oregon and California Land Grant Counties, dated February 19, 1998.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HANSEN

Mr. HANSEN. Madam Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the Nature of a Substitute Offered by Mr. HANSEN:

Strike out 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 "Oregon Public Lands Transfer and Protection Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Land transfers involving Rogue River National Forest and other public lands in Oregon.
Sec. 3. Protection of Oregon and California Railroad grant lands
Sec. 4. Hart Mountain jurisdictional transfers, Oregon.
Sec. 5. Boundary expansion, Bandon Marsh National Wildlife Refuge, Oregon.
Sec. 6. Willow Lake Natural Treatment System Project, Salem, Oregon.
Sec. 7. Conveyance to Deschutes County, Oregon.

SEC. 2. LAND TRANSFERS INVOLVING ROGUE RIVER NATIONAL FOREST AND OTHER PUBLIC LANDS IN OREGON.

(a) MAP REFERENCES.—In this section:

(1) The term "maps 1 and 2" refers to the maps entitled "BLM/Rogue River NF Administrative Jurisdiction Transfer, North Half" and "BLM/Rogue River NF Administrative Jurisdiction Transfer, South Half" , both dated April 28, 1998.

(2) The term "maps 3 and 4" refers to the maps entitled "BLM/Rogue River NF Boundary Adjustment, North Half" and "BLM/Rogue River NF Boundary Adjustment, South Half" , both dated April 28, 1998.

(b) TRANSFER FROM PUBLIC DOMAIN TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The public domain lands depicted on maps 1 and 2 consisting of approximately 2,058 acres within the external boundaries of Rogue River National Forest in the State of Oregon are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(c) TRANSFER FROM NATIONAL FOREST TO PUBLIC DOMAIN.—

(1) LAND TRANSFER.—The Federal lands depicted on maps 1 and 2 consisting of approximately 1,632 acres within the external boundaries of Rogue River National Forest are hereby transferred to unreserved public domain status, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the laws, rules, and regulations applicable to unreserved public domain lands.

(d) RESTORATION OF STATUS OF CERTAIN NATIONAL FOREST LANDS AS REVESTED RAILROAD GRANT LANDS.—

(1) RESTORATION OF EARLIER STATUS.—The Federal lands depicted on maps 1 and 2 consisting of approximately 4,298 acres within the external boundaries of Rogue River National Forest are hereby restored to the status of revested Oregon and California Railroad grant lands, and their status as part of Rogue River National Forest and the National Forest System is hereby revoked.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of Agriculture to the Secretary of the Interior. Subject to valid existing rights, the Secretary of the Interior shall administer such lands under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), and other laws, rules, and regulations applicable to revested Oregon and California Railroad grant lands under the administrative jurisdiction of the Secretary of the Interior.

(e) ADDITION OF CERTAIN REVESTED RAILROAD GRANT LANDS TO NATIONAL FOREST.—

(1) LAND TRANSFER.—The revested Oregon and California Railroad grant lands depicted on maps 1 and 2 consisting of approximately 960 acres within the external boundaries of Rogue River National Forest are hereby added to and made a part of Rogue River National Forest.

(2) ADMINISTRATIVE JURISDICTION.—Administrative jurisdiction over the lands described in paragraph (1) is hereby transferred from the Secretary of the Interior to the Secretary of Agriculture. Subject to valid existing rights, the Secretary of Agriculture shall manage such lands as part of the Rogue River National Forest in accordance with the Act of March 1, 1911 (commonly known as the Weeks Law), and under the laws, rules, and regulations applicable to the National Forest System.

(3) DISTRIBUTION OF RECEIPTS.—Notwithstanding the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 and section 13 of the Act of March 1, 1911 (16 U.S.C. 500), revenues derived from the lands described in paragraph (1) shall be distributed in accordance with the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(f) BOUNDARY ADJUSTMENT.—The boundaries of Rogue River National Forest are hereby adjusted to encompass the lands transferred to the administrative jurisdiction of the Secretary of Agriculture under this section and to exclude private property interests adjacent to the exterior boundaries of Rogue River National Forest, as depicted on maps 3 and 4.

(g) MAPS.—Within 60 days after the date of the enactment of this Act, the maps referred to in subsection (a) shall be available for public inspection in the office of the Chief of the Forest Service.

(h) MISCELLANEOUS REQUIREMENTS.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall revise the public land records relating to the lands transferred under this section to reflect the administrative, boundary, and other changes made by this section. The Secretaries shall publish in the Federal Register appropriate notice to the public of the changes in administrative jurisdiction made by this section with regard to lands described in this section.

SEC. 3. PROTECTION OF OREGON AND CALIFORNIA RAILROAD GRANT LANDS

(a) DEFINITIONS.—For purposes of this section:

(1) O & C LAND.—The term "O & C land" means the land (commonly known as "Oregon and California Railroad grant land") that—

(A) revested in the United States under the Act of June 9, 1916 (39 Stat. 218, chapter 137); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) CBWR LAND.—The term "CBWR land" means the land (commonly known as "Coos Bay Wagon Road grant land") that—

(A) was reconveyed to the United States under the Act of February 26, 1919 (40 Stat. 1179, chapter 47); and

(B) is managed by the Secretary of the Interior through the Bureau of Land Management under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) PUBLIC DOMAIN LAND.—

(A) IN GENERAL.—The term "public domain land" has the meaning given the term "public lands" in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(B) EXCLUSIONS.—The term "public domain land" does not include O & C land or CBWR land.

(4) GEOGRAPHIC AREA.—The term "geographic area" means the area in the State of Oregon within the boundaries of the Medford District, Roseburg District, Eugene District, Salem District, Coos Bay District, and Klamath Resource Area of the Lakeview District of the Bureau of Land Management, as the districts and the resource area were constituted on January 1, 1998.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) POLICY OF NO NET LOSS OF O & C LAND, CBWR LAND, OR PUBLIC DOMAIN LAND.—In carrying out sales, purchases, and exchanges of land in the geographic area, the Secretary shall ensure that on expiration of the 10-year period beginning on the date of enactment of this Act and on expiration of each 10-year period thereafter, the number of acres of O & C land and CBWR land in the geographic area, and the number of acres of O & C land, CBWR land, and public domain land in the geographic area that are available for timber harvesting, are not less than the number of acres of such land on the date of enactment of this Act.

(c) RELATIONSHIP TO UMPQUA LAND EXCHANGE AUTHORITY.—Notwithstanding any other provision of this section, this section shall not apply to an exchange of land authorized pursuant to section 1028 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4231), or any implementing legislation or administrative rule, if the land exchange is consistent with the memorandum of understanding between the Umpqua Land Exchange Project and the Association of Oregon and California Land Grant Counties dated February 19, 1998.

SEC. 4. HART MOUNTAIN JURISDICTIONAL TRANSFERS, OREGON.

(a) TRANSFER FROM THE BUREAU OF LAND MANAGEMENT TO THE UNITED STATES FISH AND WILDLIFE SERVICE.—

(1) IN GENERAL.—Administrative jurisdiction over the parcels of land identified for transfer to the United States Fish and Wildlife Service on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 12,100 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service.

(2) INCLUSION IN REFUGE.—The parcels of land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge.

(3) WITHDRAWAL.—Subject to valid existing rights, the parcels of land described in paragraph (1)—

(A) are withdrawn from—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws; and

(B) shall be treated as parcels of land subject to the provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew parcels of land for the Hart Mountain National Antelope Refuge.

(4) MANAGEMENT.—The land described in paragraph (1) shall be included in the Hart Mountain National Antelope Refuge and managed in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and other applicable law and with management plans and agreements between the Bureau of Land Management and the United States Fish and Wildlife Service for the Hart Mountain Refuge.

(b) CONTINUED MANAGEMENT OF GUANO CREEK WILDERNESS STUDY AREA BY THE BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—The parcels of land identified for cooperative management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 10,900 acres of land in Lake County, Oregon, located south of the Hart Mountain National Antelope Refuge, shall be retained under the jurisdiction of the Bureau of Land Management.

(2) MANAGEMENT.—The parcels of land described in paragraph (1) that are within the Guano Creek Wilderness Study Area Act shall be managed so as not to impair the suitability of the area for designation as wilderness, in accordance with current and future management plans and agreements (including the agreement known as the "Shirk Ranch Agreement" dated September 30, 1997), until such date as Congress enacts a law directing otherwise.

(c) TRANSFER FROM THE UNITED STATES FISH AND WILDLIFE SERVICE TO THE BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—Administrative jurisdiction over the parcels of land identified for transfer to the Bureau of Land Management on the map entitled "Hart Mountain Jurisdictional Transfer", dated February 26, 1998, comprising approximately 7,700 acres of land in Lake County, Oregon, located adjacent to or within the Hart Mountain National Antelope Refuge, is transferred from the United States Fish and Wildlife Service to the Bureau of Land Management.

(2) REMOVAL FROM REFUGE.—The parcels of land described in paragraph (1) are removed from the Hart Mountain National Antelope Refuge, and the boundary of the refuge is modified to reflect that removal.

(3) REVOCATION OF WITHDRAWAL.—The provisions of Executive Order No. 7523 of December 21, 1936, as amended by Executive Order No. 7895 of May 23, 1938, and Presidential Proclamation No. 2416 of July 25, 1940, that withdrew the parcels of land for the refuge, shall be of no effect with respect to the parcels of land described in paragraph (1).

(4) STATUS.—The parcels of land described in paragraph (1)—

(A) are designated as public land; and

(B) shall be open to—

(i) surface entry under the public land laws;

(ii) leasing under the mineral leasing laws and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); and

(iii) location and entry under the mining laws.

(5) MANAGEMENT.—The land described in paragraph (1) shall be managed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, and the agreement known as the "Shirk Ranch Agreement" dated September 30, 1997.

(d) MAP.—A copy of the map described in subsections (a), (b), and (c) and such additional legal descriptions as are applicable shall be kept on file and available for public inspection in the Office of the Regional Director of Region 1 of the United States Fish and Wildlife Service, the local District Office of the Bureau of Land Management, the Committee on Energy and Natural Resources of the Senate, and the Committee on Resources of the House of Representatives.

(e) CORRECTION OF REFERENCE TO WILDLIFE REFUGE.—Section 28 of the Act of August 13, 1954 (68 Stat. 718, chapter 732; 72 Stat. 818; 25 U.S.C. 564w-1), is amended in subsections (f) and (g) by striking "Klamath Forest National Wildlife Refuge" each place it appears and inserting "Klamath Marsh National Wildlife Refuge".

SEC. 5. BOUNDARY EXPANSION, BANDON MARSH NATIONAL WILDLIFE REFUGE, OREGON.

Section 102 of Public Law 97-137 (95 Stat. 1709; 16 U.S.C. 668dd note) is amended by striking "three hundred acres" and inserting "1,000 acres".

SEC. 6. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT, SALEM, OREGON.

(a) IN GENERAL.—Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 1634. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

"(a) AUTHORIZATION.—The Secretary, in cooperation with the city of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the city of Salem.

"(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of such Act is amended by inserting after the item relating to section 1633 the following:

"Sec. 1634. Willow Lake Natural Treatment System Project.

SEC. 7. CONVEYANCE TO DESCHUTES COUNTY, OREGON.

(a) PURPOSES.—The purposes of this section are to authorize the Secretary of the Interior to sell at fair market value to Deschutes County, Oregon, certain land to be used to protect the public's interest in clean water in the aquifer that provides drinking water for residents of Deschutes County and to promote the public interest in the efficient delivery of social services and public amenities in southern Deschutes County by—

(1) providing land for private residential development to compensate for development prohibitions on private land that is currently zoned for residential development, but the development of which would cause increased pollution of ground and surface water;

(2) providing for the streamlined and low-cost acquisition of land by nonprofit and governmental social service entities that offer needed community services to residents of the area;

(3) allowing Deschutes County to provide land for community amenities and services, such as open space, parks, roads, and other public spaces and uses, to area residents at little or no cost to the public; and

(4) otherwise assist in the implementation of the Deschutes County Regional Problem Solving Project.

(b) SALE OF LAND.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this section as the "Secretary") may make available for sale at fair market value to Deschutes County, Oregon, a parcel of the land in Deschutes County comprising approximately 544 acres and lying in township 22 south, range 10 east, Willamette meridian, as more fully described as follows:

(1) Section 1:

(A) Government Lot 3, the portion west of Highway 97;

(B) Government Lot 4;

(C) SENW, the portion west of Highway 97; SWNW, the portion west of Highway 97, NWSW, the portion west of Highway 97; SWSW, the portion west of Highway 97;

(2) Section 2:

(A) Government Lot 1;

(B) SENE, SESW, the portion east of Huntington Road; NESE; NWSE; SWSE; SESE, the portion west of Highway 97;

(3) Section 11:

(A) Government Lot 10;

(B) NENE, the portion west of Highway 97; NWNE; SWNE, the portion west of Highway 97; NENW, the portion east of Huntington Road; SWNW, the portion east of Huntington Road; SENW.

(c) SUITABILITY FOR SALE.—The Secretary shall convey the land under subsection (b) only if the Secretary determines that the land is suitable for sale through the land use planning process.

(d) SPECIAL ACCOUNT.—The amount paid by the County for the conveyance of land under subsection (b)—

(1) shall be deposited in a special account in the Treasury of the United States; and

(2) may be used by the Secretary for the purchase of environmentally sensitive land east of range 9 east, Willamette meridian, in the State of Oregon that is consistent with the goals and objectives of the land use planning process of the Bureau of Land Management.

Mr. HANSEN (during the reading). Madam Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The amendment in the nature of a substitute was agreed to.

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

AUTHORIZING SECRETARY OF INTERIOR TO CONVEY CERTAIN FACILITIES OF THE MINIDOKA PROJECT TO THE BURLEY IRRIGATION DISTRICT

Mr. HANSEN. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, 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. 538

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

SECTION 1. CONVEYANCE OF FACILITIES.

(a) DEFINITIONS.—In this section:

(1) BURLEY.—The term "Burley" means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) DIVISION.—The term "Division" means the Southside Pumping Division of the Minidoka project, Idaho.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first $80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of Twin Falls Canal Company v. Charles N. Foster, et al., and commonly referred to as the "Foster decree".

(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14-06-100-2455 and 14-06-W-48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) PROJECT RESERVED POWER.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) SAVINGS.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) LIABILITY.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act, 28 U.S.C. 2671 et seq.

(g) COMPLETION OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer.

Mrs. CHENOWETH. Madam. Speaker, I am happy to come before the House to express my strong support for S. 538, the Burley Irrigation District Conveyance Act, sponsored by my Senate colleagues, Senator Craig and Senator KEMPTHORNE. S. 538 also resembles H.R. 1282, a bill introduced by my friend and fellow Idahoan in the House, MIKE CRAPO.

Madam Speaker, S. 538 would simply convey certain facilities of the Minidoka project, which was authorized in 1902, to the Burley Irrigation District. This fulfills the contract the District had with the Federal government.

Per their agreement, the water users of the Burley Irrigation District have paid their obligations to the U.S. Treasury. Having fulfilled this responsibility under the Reclamation Act, the Water District has been working diligently with Congressman CRAPO and me over the last year to develop this important legislation.

Madam Speaker, S. 538 transfers the rights and use of the facility for which the District already has a right of title.

In April of this year we heard testimony from Roger Ling before the House Subcommittee on Water and Power, chaired by my good friend JOHN DOOLITTLE. Mr. Ling, who is an Idaho Citizen, and a member of the Burley Irrigation District, laid out for the subcommittee in detail the fascinating history of how this project came to fruition. He made a compelling case why the Burley water users deserve to receive the title which they have lawfully paid for.

I am very pleased to have the opportunity to assist Burley in working through the intent of the Reclamation Act. I am convinced that the District will do a tremendous job managing the Minidoka facility, including the environmental aspects of this project.

I would like to address some concerns my democratic colleagues have with regard to NEPA. This is not a complicated bill. S. 538 simply authorizes a title transfer. Nothing more, nothing less. The everyday workings of the irrigation district will not change. The simple "paper" transfer will not have an environmental impact. Therefore, an environmental assessment or impact study is not necessary and a waste of resources. And it is my understanding of this bill that, so long as the day-to-day operations are unchanged, NEPA is deemed to be complied with.

The only change to the Burley Irrigation District will be that the people who have worked for decades to pay for the Minidoka facility will finally receive that which is due to—ownership title.

I thank Chairman DOOLITTLE for bringing this important legislation before the House, and I urge my fellow Colleagues to vote for its passage.

Mr. CRAPO. Madam Speaker, I rise to voice my strong support for S. 538, a bill to convey title to certain facilities in the Minidoka Project to the Burley Irrigation District in Idaho. This bill represents a watershed for irrigators in the western United States by setting a model for future legislation involving facility title transfers.

Burley Irrigation District is a waterusers cooperative operating in southern Idaho for the benefit of local irrigators and was authorized in 1904 under the Reclamation Act. Under authority outlined in the Act, the Secretary of the Interior, through the Bureau of Reclamation, transferred to the District the care, operation, and maintenance of certain project works. In 1926, the District entered into a contract with the United States to assume the care, operation, and maintenance of the South Side Pumping Division, together with certain telephone lines.

In this contract, the District agreed to pay to the United States the balance of all construction indebtedness of landowners, including interest and penalties, operation and maintenance charges, and book value of equipment and supplies transferred to the District.

Supplemental contracts between the District and the United States have transferred responsibility for certain transmission lines, transformer stations, and the main South Side Canal from its headworks to the first lift pumping station of the South Side Pumping Division.

Since that time, the District has repaid out all construction and other costs allocated to it under the various contracts. The District has been in continuous operation, maintenance, and management of the distribution facilities and pumping plants for 72 years.

S. 538 is consistent with the Reclamation Act of 1902 and the need of the United States to divest itself of title to property for which it has liability, but not the operation and maintenance responsibilities. Moreover, it fulfills the spirit of the Reclamation Act and the goal of reducing the size of the federal government by transferring to private hands title to Bureau of Reclamation facilities.

I would like to take a moment to address certain questions that had been raised by the Administration regarding the intentions of this bill. These issues have already been clarified with the Secretary of the Interior, but I would like to state them here for the purpose of placing them in the RECORD.

First, the question of what is meant in this legislation by the inclusion of return flows as part of the water rights transfer. As a result of the irrigation of the lands within Burley Irrigation District and Minidoka Irrigation District, there are return flows to the Snake River. Under the Foster Decree, when these districts are using stored water to which they are entitled under their spaceholder contracts for irrigation of their lands, they receive a credit for the return flows to the river which is used on a proportionate basis to reduce their use of stored water. The Decree is administered by the State of Idaho, and the extent of return flows depends on the operation of the districts' distribution systems. These rights clearly belong to the districts and inure the benefit of the districts and the landowners therein.

Second, a concern had been raised about this bill potentially changing the crediting system of return flows from the way it is currently carried out and, in particular, adversely affecting the Minidoka Irrigation District. Let me assure you that nothing in the bill is intended to modify the crediting of return flows from the way they are currently credited. Of course, it is extremely difficult to differentiate the source of return flows, but I would expect that the agreement to be negotiated between the Burley Irrigation District, the Minidoka Irrigation District, and the Secretary of the Interior, would address the partitioning of credits in a manner that will preserve the status quo.

Finally, the Administration had raised a question about the possible impact on storage rights of provisions in the bill transferring natural flow rights. The Bureau of Reclamation has been informed that nothing under this bill is intended to transfer or impair storage rights held by the Bureau, and nothing is intended to impair the operations of the Minidoka Project by the Secretary of the Interior. To the extent operational issues or concerns arise as a result of the transfer, I would expect the Burley Irrigation District and the Secretary to address such matters in the agreement that will be negotiated under the bill.

These questions have been addressed to the satisfaction of the Administration, and all sides have given their assent to this legislation.

Madam Speaker, this legislation is the product of months of intensive negotiations involving the District, the Administration, and Congress. It is fair and cost-effective to the American taxpayer, and it is simply wise public policy. The compromises reached allow all those involved to feel a sense of ownership in this legislation. Accordingly, I would like to express my appreciation to the distinguished subcommittee chairman, Mr. DOOLITTLE, the ranking member, Mr. DEFAZIO, as well as the full committee Chairman YOUNG and Ranking Member MILLER, and the Administration for their hard work and cooperation on this important bill.

I would also like to express my thanks to my colleague from Idaho, Mrs. CHENOWETH, for her invaluable help in passing this legislation. And, of course, I extend special appreciation to the bill's sponsor in the other body, Senator CRAIG, and applaud his persistence in this endeavor.

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.

GENERAL LEAVE

Mr. HANSEN. Madam Speaker I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bills just passed.

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

There was no objection.

REREFERRAL OF MEMORIAL NO. 303 TO COMMITTEE ON AGRICULTURE AND COMMITTEE ON RESOURCES

Mr. HANSEN. Madam Speaker, I ask unanimous consent that Memorial No. 303 received by the House from the legislature of the State of Idaho be referred to the Committee on Agriculture as well as the Committee on Resources.

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

There was no objection.

REREFERRAL OF EXECUTIVE COMMUNICATIONS 10321 AND 10322 TO COMMITTEE ON AGRICULTURE

Mr. HANSEN. Madam Speaker, I ask unanimous consent that the Committee on Resources be discharged from consideration of Executive Communications 10321 and 10322 and that such Executive Communications be rereferred to the Committee on Agriculture.

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

There was no objection.

DANTE B. FASCELL NORTH-SOUTH CENTER ACT OF 1991

Mr. GILMAN. Madam Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the bill (H.R. 4757) to designate the North-South Center as the Dante B. Fascell North-South Center, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. HAMILTON. Madam Speaker, reserving the right to object, of course I will not object, but I would like to yield to the chairman for an explanation of the bill.

Mr. GILMAN. Madam Speaker, it is a pleasure for me to bring before the House a bill to honor our esteemed former colleague, the former chairman of the Committee on International Relations, the gentleman from Florida, Dante Fascell.

This bill will rename the educational institution known as the North-South Center as the Dante B. Fascell North-South Center. Chairman Fascell was responsible for establishing that center in 1991 to promote better relations between our Nation and the nations of Latin America, the Caribbean and Canada through cooperative study training and research. Today we recognize the significant contributions that Dante Fascell has made to the U.S.-Latin American relations and, indeed, to so many other aspects of our foreign policy.

Dante Fascell was a dedicated legislator and statesman. It is a privilege to sponsor this measure along with 15 other Members of Congress. This is only a modest gesture to recognize a truly great American.

Accordingly, I urge my colleagues to support this bill.

Mr. HAMILTON. Madam Speaker, continuing my reservation, I strongly

support the bill to rename the North-South Center after the former chairman of the House Committee on International Relations, Dante Fascell. I want to thank the gentleman from New York, (Mr. GILMAN) the chairman of the committee, for his initiative in bringing the bill forward.

Dante Fascell was an extraordinarily important figure in this Congress, certainly in the recent history of the international relations committee and in the development of American foreign policy. He was a highly effective legislator, enormously popular in this body. He was an excellent chairman, and his many contributions to the Congress and to the country were simply extraordinary.

Almost all of us who have served on that committee I think have very fond memories of Dante's public service, not the least of which was his accomplishment in getting the North-South Center established. The Center is a concrete example of Dante's intense interest in Latin America. He was a leader in this institution and in the United States Government in fashioning an effective policy toward Latin America. The North-South Center provides independent and serious analysis of Latin America and is an asset to all policy makers.

It is, therefore, only fitting that Dante Fascell would be commemorated permanently in the name of the center that he cares so much about and worked so hard for.

Madam Speaker, I urge unanimous support.

Mr. GILMAN. Madam Speaker, it is a great pleasure to bring before the House a bill to honor our esteemed former colleague, the former Chairman of the International Relations Committee Dante Fascell.

This bill will rename the educational institution known as the North/South Center, as the Dante B. Fascell North-South Center.

Chairman Fascell was responsible for establishing this Center in 1991 to promote better relations between the United States and the nations of Latin America, the Caribbean and Canada through cooperative study training and research.

Today, we recognize the significant contribution Dante Fascell has made to U.S.-Latin American relations and indeed to so many other aspects of our foreign policy. He was a dedicated legislator and statesman. It is a privilege to sponsor this measure along with 15 other Members of Congress. This is only a modest gesture to recognize a truly great American.

I urge my colleagues to support this bill.

Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 4757

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

SECTION 1. DESIGNATION OF NORTH/SOUTH CENTER AS THE DANTE B. FASCELL NORTH-SOUTH CENTER.

Section 208 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2075) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) SHORT TITLE.—This section may be cited as the "Dante B. Fascell North-South Center Act of 1991";

(2) in subsection (c)—

(A) by amending the section heading to read as follows: "DANTE B. FASCELL NORTH-SOUTH CENTER.—"; and

(B) by striking "known as the North/South Center," and inserting "which shall be known and designated as the Dante B. Fascell North-South Center,"; and

(3) in subsection (d) by striking "North/South Center" and inserting "Dante B. Fascell North-South Center".

SEC. REFERENCES.

(a) CENTER.—Any reference in any other provision of law to the educational institution in Florida known as the North/South Center shall be deemed to be a reference to the "Dante B. Fascell North-South Center".

(b) SHORT TITLE.—Any reference in any other provision of law to the North/South Center Act of 1991 shall be deemed to be a reference to the "Dante B. Fascell North/South Center Act of 1991".

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

GENERAL LEAVE

Mr. GILMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4757.

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

There was no objection.

AUGUSTUS F. HAWKINS POST OFFICE BUILDING

Mr. MCHUGH. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2349) to redesignate the Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, as the "Augustus F. Hawkins Post Office Building."

The Clerk read as follows:

H.R. 2349

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

SECTION 1. REDESIGNATION.

The Federal building located at 10301 South Compton Avenue, in Los Angeles, California, and known as the Watts Finance Office, shall be known and designated as the "Augustus F. Hawkins Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Augustus F. Hawkins Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentlewoman from California (Ms. MILLENDER-MCDONALD) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

GENERAL LEAVE

Mr. MCHUGH. Madam Speaker I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2349.

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

There was no objection.

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

Madam Speaker, H.R. 2349 was introduced by our distinguished colleague from California (Ms. MILLENDER-MCDONALD) on July 31 of 1997; and as required under the rules of the Committee on Government Reform and Oversight, all Members of the House delegation from the State of California are cosponsors of this bill. In addition, 46 other Members of this body are cosponsors of the bill honoring former Representative Hawkins.

Madam Speaker, this bill designates the Federal building located at 10301 South Compton Avenue, Los Angeles, California, known as the Watts Finance Office as the Augustus F. Hawkins Post Office Building.

H.R. 2349 was referred to the Committee on Transportation and Infrastructure on July 31 of 1997. On October 1 of 1998, the Committee on Transportation and Infrastructure discharged the measure, and it was referred to the House Committee on Government Reform and Oversight. I am pleased that we are able to bring this legislation to the floor, and I certainly want to congratulate the gentlewoman from California for her hard work in seeing this measure to the end.

We had the opportunity to discuss the bill at the end of last week, and there was some confusion as to the path that this legislation has taken, and I commend her for not being deterred by that confusion but sticking with it and bringing us to this moment and this opportunity to pass this measure.

Madam Speaker, I know the gentlewoman will have a great deal to say about our former colleague, Augustus Hawkins. I would just note that, like so many individuals who have had the honor bestowed upon them of a Post Office-naming legislation, he, too, is an example of the kind of service, the kind of commitment to community that I think merits this kind of designation.

Through his service in the California State legislature for some 28 years,

often during that period as the only African American member, he authored some 100 laws attempting to improve such things as child care, housing and fair employment. Of course later, when in 1962 he was elected to the Congress of the United States, he continued to make those kinds of contributions and those kinds of efforts on behalf of all of his constituents.

So I certainly commend the gentlewoman from California for her dedication to this initiative and for bringing us yet another very deserving designee.

Madam Speaker, I urge all of my colleagues to support this measure.

Madam Speaker, I reserve the balance of my time.

Ms. MILLENDER-McDONALD. Madam Speaker, I yield myself such time as I may consume.

I am pleased to join the gentleman from New York (Mr. MCHUGH) in bringing to the House floor this piece of legislation designating a United States finance building after a distinguished and deserving individual. I would like to take this opportunity to thank the chairman for his timely consideration and his support during the struggle in trying to get this bill to the floor.

Madam Speaker, I rise to pay tribute to a dear friend and a former Congressman by renaming the Federal building located at 10301 South Compton Avenue in Los Angeles, California, known as the Watts Finance Office to the Augustus F. Hawkins Post Office Building.

Madam Speaker, H.R. 2349 enjoys the bipartisan support of the entire California delegation, Congressman Hawkins' former colleagues, and support in the United States Senate.

Madam Speaker, The Washington Post once called Gus Hawkins one of the most famous unknown men of our day. However, many of us knew him as a quiet fighter for racial justice, social equality, and education for minorities, women and children. Gus committed his life to serving others, and his 56 years of public service spanned a period that included the Great Depression, World War II, McCarthyism, both the Korean and Vietnam wars, the Civil Rights movement, and the war on poverty. He witnessed the assassination of a President and the resignation of another.

He was born in Shreveport, Louisiana, in 1907. When he was only 11, he and his family moved to Los Angeles to escape the racial discrimination that was prevalent in the south at that time. His legislative career began in the California State Assembly where he served for 28 years and was often the legislature's only black member. His record in Sacramento includes the passage of the State's first law against discrimination in housing and employment. He also carried successful State legislation concerning minimum wages for women, child care centers, workers compensation for domestic employees, and the removal of racial designations on State documents.

After his remarkable tenure in the assembly, Gus was elected and sworn in as a member of the 88th Congress in 1962. He served as chairman of the Joint Committee on Printing in the 97th Congress, the Joint Committee on Libraries in the 97th Congress, as well as the Committee on House Administration in the 97th Congress and the 98th Congress, before serving as Chairman of the Committee on Education and Labor in the 101st Congress.

By and large, Gus was known by his colleagues as a hard-working, trustworthy, low-key legislator who concentrated on issues of importance to his district. He preferred to work behind the scenes and let others capture the headlines. He is the author of more than 17 Federal laws, including the Full Employment and Balanced Growth Act, Title VII of the Civil Rights Act, establishing the Equal Employment Opportunity Commission, the Job Training Partnership Act, the School Improvement Act, which rewrote virtually all major elementary and secondary education programs, and the Civil Rights Restoration Act.

In 1978, he coauthored and passed the Humphrey-Hawkins Full Employment Act, which pledged Federal Government efforts to reduce unemployment to 4 percent by 1983, if the private sector failed to do so. The Humphrey-Hawkins bill is seen as one of Gus's greatest pieces of legislation accomplishments because it established a real blueprint for moving this country ahead in job training and employment, the foundation to every other policy.

Throughout his remarkable career in public service, Gus has championed the rights of children, the poor, the elderly working people, and minorities. He never forgot who he was, where he came from, nor the people whom he served. It is only fitting that we rise to pay tribute to him by redesignating the Federal building located at 10301 South Compton Avenue in Los Angeles, California, known as the Watts Finance Office to the Augustus F. Hawkins Post Office Building.

I would again like to thank my colleagues in the California delegation and all of the cosponsors of this legislation for joining me in a bipartisan fashion to pay tribute to a great man, a man who would want to be remembered by his colleagues and friends alike as someone who simply loved children, the honorable Augustus F. Hawkins, former distinguished member of the U.S. House of Representatives.

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

Mr. MCHUGH. Madam Speaker, with an additional compliment and thank you to the gentlewoman from California, I would like to urge all of our colleagues to support this very worthy nominee.

Mrs. MINK of Hawaii. Madam Speaker, I am pleased to rise in support of H.R. 2349, which redesignates the Federal building on South Compton Ave in Los Angeles, California, known was the Watts Finance Office, as the "Augustus Hawkins Post Office Building".

I had the great privilege to serve in the Congress with the Honorable Augustus Hawkins from 1965 to 1976. Congressman Hawkins served on the House Committee on Education and Labor. He retired in 1990, the year that I returned. From 1984 until his retirement he served as Chair of the House Education and the Labor Committee.

There was no greater advocate for workers' rights than Gus Hawkins. His Full Employment Act, passed in 1978, played a significant role in reminding the leaders of this nation that until unemployment was at 4% our task was not over. He constantly voiced his great frustration that our policies were not reaching the urban centers and our minority youth. He championed job training and education as the key to the future of our nation's workforce.

Gus Hawkins was the people's legislator always working to improve the quality of life of those who were struggling to make ends meet.

One of the last bills he advanced was an omnibus child care bill which he knew was the key to a stable, secure workforce. Today the agenda advanced by Gus Hawkins is very much at the top of our unmet needs.

I stand with others as one of his greatest admirers and urge the passage of H.R. 2349 as one way to honor his work and to remember his commitment to public service.

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 2349.

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.

TELECOMMUNICATIONS COMPETITION AND CONSUMER PROTECTION ACT OF 1998

Mr. BLILEY. Madam Speaker, I move to suspend the rules and pass the (H.R. 3888) to amend the Communications Act of 1934 to improve the protection of consumers against "slamming" by telecommunications carriers, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3888

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Competition and Consumer Protection Act of 1998".

TITLE I—SLAMMING

SEC. 101. IMPROVED PROTECTION FOR CONSUMERS.

(a) CONSUMER PROTECTION PRACTICES.—Section 258 of the Communications Act of 1934 (47 U.S.C. 258) is amended to read as follows:

"SEC. 258. ILLEGAL CHANGES IN SUBSCRIBER SELECTIONS OF CARRIERS.

"(a) ALTERNATIVE MODES OF REGULATION.—

"(1) INDUSTRY/COMMISSION CODE.—Within 180 days after the date of enactment of the Telecommunications Competition and Consumer Protection Act of 1998, the Commission, after consulting with the Federal Trade Commission and representatives of telecommunications carriers providing telephone toll service and telephone exchange service, State commissions, and consumers, and considering any proposals developed by such representatives, shall prescribe, after notice and public comment and in accordance with subsection (b), a Code of Subscriber Protection Practices (hereinafter in this section referred as the 'Code') governing changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service.

"(2) OBLIGATION TO COMPLY.—No telecommunications carrier (including a reseller of telecommunications services) shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with—

"(A) the Code, if such carrier elects to comply with the Code in accordance with subsection (b)(2); or

"(B) the requirements of subsection (c), if—

"(i) the carrier does not elect to comply with the Code under subsection (b)(2); or

"(ii) such election is revoked or withdrawn.

"(b) MINIMUM PROVISIONS OF THE CODE.—

"(1) SUBSCRIBER PROTECTION PRACTICES.—The Code required by subsection (a)(1) shall include provisions addressing the following:

"(A) IN GENERAL.—A telecommunications carrier (including a reseller of telecommunications services) electing to comply with the Code shall submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service only in accordance with the provisions of the Code.

"(B) NEGATIVE OPTION.—A telecommunications carrier shall not use negative option marketing.

"(C) VERIFICATION.—A telecommunications carrier that submits the change to an executing carrier, or that is both a submitting and an executing carrier, shall verify the subscriber's selection of the carrier in accordance with procedures specified in the Code.

"(D) UNFAIR AND DECEPTIVE ACTS AND PRACTICES.—No telecommunications carrier, nor any person acting on behalf of any such carrier, shall engage in any unfair or deceptive acts or practices in connection with the solicitation of a change in a subscriber's selection of a telecommunications carrier.

"(E) NOTIFICATION AND RIGHTS.—A telecommunications carrier shall provide timely and accurate notification to the subscriber in accordance with procedures specified in the Code.

"(F) SLAMMING LIABILITY AND REMEDIES.—

"(i) REQUIRED REIMBURSEMENT AND CREDIT.—A telecommunications carrier that has improperly changed the subscriber's selection of a telecommunications carrier without authorization, shall at a minimum—

"(I) reimburse the subscriber for the fees associated with switching the subscriber back to their original carrier; and

"(II) provide a credit for any telecommunications charges incurred by the subscriber during the period, not to exceed 30 days, while that subscriber was improperly presubscribed.

"(ii) PROCEDURES.—The Code shall prescribe procedures by which—

"(I) a subscriber may make an allegation of a violation under clause (i);

"(II) the telecommunications carrier may rebut such allegation;

"(III) the subscriber may, without undue delay, burden, or expense, challenge the rebuttal; and

"(IV) resolve any administrative review of such an allegation within 75 days after receipt of an appeal.

"(G) RECORDKEEPING.—A telecommunications carrier shall make and maintain a record of the verification process and shall provide a copy to the subscriber immediately upon request.

"(H) QUALITY CONTROL.—A telecommunications carrier shall institute a quality control program to prevent inadvertent changes in a subscriber's selection of a carrier.

"(I) INDEPENDENT AUDITS.—A telecommunications carrier shall provide the Commission with an independent audit regarding its compliance with the Code at intervals prescribed by the Code. The Commission may require a telecommunications carrier to provide an independent audit on a more frequent basis if there is evidence that such telecommunications carrier is violating the Code.

"(2) ELECTION BY CARRIERS.—Each telecommunications carrier electing to comply with the Code shall file with the Commission within 20 days after the adoption of the Code, or within 20 days after commencing operations as a telecommunications carrier, a statement electing the Code to govern such carrier's submission or execution of a change in a customer's selection of a provider of telephone exchange service or telephone toll service. Such election by a carrier may not be revoked or withdrawn unless the Commission finds that there is good cause therefor, including a determination that the carrier has failed to adhere in good faith to the applicable provisions of the Code, and that the revocation or withdrawal is in the public interest. Any telecommunications carrier that fails to elect to comply with the Code shall be deemed to have elected to be governed by the subsection (c) and the Commission's regulations thereunder.

"(c) REGULATIONS OF CARRIERS NOT COMPLYING WITH CODE.—

"(1) IN GENERAL.—A telecommunications carrier (including a reseller of telecommunications services) that has not elected to comply with the Code under subsection (b), or as to which the election has been withdrawn or revoked, shall not submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with this subsection and such verification procedures as the Commission shall prescribe.

"(2) VERIFICATION.—

"(A) IN GENERAL.—In order to verify a subscriber's selection of a telephone exchange service or telephone toll service provider under this subsection, the telecommunications carrier submitting the change to an executing carrier shall, at a minimum, require the subscriber—

"(i) to affirm that the subscriber is authorized to select the provider of that service for the telephone number in question;

"(ii) to acknowledge the type of service to be changed as a result of the selection;

"(iii) to affirm the subscriber's intent to select the provider as the provider of that service;

"(iv) to acknowledge that the selection of the provider will result in a change in providers of that service; and

"(v) to provide such other information as the Commission considers appropriate for the protection of the subscriber.

"(B) ADDITIONAL REQUIREMENTS.—The procedures prescribed by the Commission to verify a subscriber's selection of a provider shall—

"(i) preclude the use of negative option marketing;

"(ii) provide for a complete copy of verification of a change in telephone exchange service or telephone toll service provider in oral, written, or electronic form;

"(iii) require the retention of such verification in such manner and form and for such time as the Commission considers appropriate;

"(iv) mandate that verification occur in the same language as that in which the change was solicited; and

"(v) provide for verification to be made available to a subscriber on request.

"(C) NOTICE TO SUBSCRIBER.—Whenever a telecommunication carrier submits a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service, such telecommunications carrier shall clearly notify the subscriber in writing, not more than 15 days after the change is submitted to the executing carrier—

"(i) of the subscriber's new carrier; and

"(ii) that the subscriber may request information regarding the date on which the change was agreed to and the name of the individual who authorized the change.

"(3) LIABILITY FOR VIOLATIONS.—

"(A) NOTIFICATION OF CHANGE.—The first bill issued after the effective date of a change in a subscriber's provider of telephone exchange service or telephone toll service by the executing carrier for such change shall—

"(i) prominently disclose the change in provider and the effective date of such change;

"(ii) contain the name and toll-free number of any telecommunications carrier for such new service; and

"(iii) direct the subscriber to contact the executing carrier if the subscriber believes that such change was not authorized and that the change was made in violation of this subsection, and contain the toll-free number by which to make such contact.

"(B) AUTOMATIC SWITCH-BACK OF SERVICE AND CREDIT TO CONSUMER OF CHARGES.—

"(i) OBLIGATIONS OF EXECUTING CARRIER.—If a subscriber of telephone exchange service or telephone toll service makes an allegation, orally or in writing, to the executing carrier that a violation of this subsection has occurred with respect to such subscriber—

"(I) the executing carrier shall, without charge to the subscriber, execute an immediate change in the provider of the telephone service that is the subject of the allegation to restore the previous provider of such service for the subscriber;

"(II) the executing carrier shall provide an immediate credit to the subscriber's account for any charges for executing the original change of service provider;

"(III) if the executing carrier conducts billing for the carrier that is the subject of the allegation, the executing carrier shall provide an immediate credit to the subscriber's account for such service, in an amount equal to any charges for the telephone service that is the subject of the allegation incurred during the period—

"(aa) beginning upon the date of the change of service that is the subject of the allegation; and

"(bb) ending on the earlier of the date that the subscriber is restored to the previous

provider, or 30 days after the date the bill described in subparagraph (A) is issued; and

"(IV) the executing carrier shall recover the costs of executing the change in provider to restore the previous provider, and any credits provided under subclause (II) and (III), by recourse to the provider that is the subject of the allegation.

"(ii) OBLIGATIONS OF CARRIERS NOT BILLING THROUGH EXECUTING CARRIERS.—If a subscriber of telephone exchange service or telephone toll service transmits, orally or in writing, to any carrier that does not use an executing carrier to conduct billing an allegation that a violation of this subsection has occurred with respect to such subscriber, the carrier shall provide an immediate credit to the subscriber's account for such service, and the subscriber shall, except as provided in subparagraph (C)(iii), be discharged from liability, for an amount equal to any charges for the telephone service that is the subject of the allegation incurred during the period—

"(I) beginning upon the date of the change of service that is the subject of the allegation; and

"(II) ending on the earlier of the date that the subscriber is restored to the previous provider, or 30 days after the date the bill described in paragraph (1) is issued.

"(iii) TIME LIMITATION.—This subparagraph shall apply only to allegations made by subscribers before the expiration of the 1-year period that begins on the issuance of the bill described in subparagraph (A).

"(C) PROCEDURE FOR CARRIER REMEDY.—

"(i) IN GENERAL.—The Commission shall, by rule, establish a procedure for rendering determinations with respect to violations of this subsection. Such procedure shall permit such determinations to be made upon the filing of (I) a complaint by a telecommunications carrier that was providing telephone exchange service or telephone toll service to a subscriber before the occurrence of an alleged violation, and seeking damages under clause (ii), or (II) a complaint by a telecommunications carrier that was providing services after the alleged violation, and seeking a reinstatement of charges under clause (iii). Either such complaint shall be filed not later than 6 months after the date on which any subscriber whose allegation is included in the complaint submitted an allegation of the violation to the executing carrier under subparagraph (B)(ii). Either such complaint may seek determinations under this paragraph with respect to multiple alleged violations in accordance with such procedures as the Commission shall establish in the rules prescribed under this subparagraph.

"(ii) DETERMINATION OF VIOLATION AND REMEDIES.—In a proceeding under this subparagraph, if the Commission determines that a violation of this subsection has occurred, other than an inadvertent or unintentional violation, the Commission shall award damages—

"(I) to the telecommunications carrier filing the complaint, in an amount equal to the sum of (aa) the gross amount of charges that the carrier would have received from the subscriber during the violation, and (bb) $500 per violation; and

"(II) to the subscriber that was subjected to the violation, in the amount of $500.

"(iii) DETERMINATION OF NO VIOLATION.—If the Commission determines that a violation of this subsection has not occurred, the Commission shall order that any credit provided to the subscriber under subparagraph (B)(ii) be reversed, or that the carrier may resubmit a bill for the amount of the credit to the subscriber notwithstanding any discharge under subparagraph (B)(ii).

"(iv) SPEEDY RESOLUTION OF COMPLAINTS.—The procedure established under this subparagraph shall provide for a determination of each complaint filed under the procedure not later than 6 months after filing.

"(D) MAINTENANCE OF INFORMATION.—

"(i) IN GENERAL.—The Commission shall, by rule, require each executing carrier to maintain information regarding each alleged violation of this subsection of which the carrier has been notified.

"(ii) CONTENTS.—The information required to be maintained pursuant to this paragraph shall include, for each alleged violation of this subsection, the effective date of the change of service involved in the alleged violation, the name of the provider of the service to which the change was made, the name, address, and telephone number of the subscriber who was subject to the alleged violation, and the amount of any credit provided under subparagraph (B)(ii).

"(iii) FORM.—The Commission shall prescribe one or more computer data formats for the maintenance of information under this paragraph, which shall be designed to facilitate submission and compilation pursuant to this subparagraph.

"(iv) MONTHLY REPORTS.—Each executing carrier shall, on not less than a monthly basis, submit the information maintained pursuant to this subparagraph to the Commission.

"(v) ACCESS TO INFORMATION.—The Commission shall make the information submitted pursuant to clause (iv) available upon request to any telecommunications carrier. Any telecommunications carrier obtaining access to such information shall use such information exclusively for the purposes of investigating, filing, or resolving complaints under this section.

"(4) CIVIL PENALTIES.—Unless the Commission determines that there are mitigating circumstances, violation of this subsection is punishable by a forfeiture of not less than $40,000 for the first offense, and not less than $150,000 for each subsequent offense.

"(5) RECOVERY OF FORFEITURES.—The Commission may take such action as may be necessary—

"(A) to collect any forfeitures it imposes under this subsection; and

"(B) on behalf of any subscriber, to collect any damages awarded the subscriber under this subsection.

"(d) APPLICATION TO WIRELESS.—This section does not apply to a provider of commercial mobile service.

"(e) COMMISSION REQUIREMENTS.—

"(1) SEMIANNUAL REPORTS.—Every 6 months, the Commission shall compile and publish a report ranking telecommunications carriers by the percentage of verified complaints, excluding those generated by the carrier's unaffiliated resellers, compared to the number of the carrier's changes in a subscriber's selection of a provider of telephone exchange service and telephone toll service.

"(2) INVESTIGATION.—If a telecommunications carrier is listed among the 5 worst performers based upon the percentage of verified complaints, excluding those generated by the carrier's unaffiliated resellers, compared to its number of carrier selection changes in the semiannual reports 3 times in succession, the Commission shall investigate the carrier's practices regarding subscribers' selections of providers of telephone exchange service and telephone toll service. If the Commission finds that the carrier is misrepresenting adherence to the Code or is willfully and repeatedly changing subscribers' selections of providers, it shall find such carrier to be in violation of this section and shall fine the carrier up to $1,000,000.

"(3) CODE REVIEW.—Every 2 years, the Commission shall review the Code to ensure its requirements adequately protect subscribers from improper changes in a subscriber's selection of a provider of telephone exchange service and telephone toll service.

"(f) ACTIONS BY STATES.—

"(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has violated the Code or subsection (c), or any rule or regulation prescribed by the Commission under subsection (c), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such violation, to enforce compliance with such Code, subsection, rule, or regulation, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

"(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (A) to intervene in such action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(3) VENUE.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(4) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(5) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(6) LIMITATION.—Whenever the Commission has instituted a civil action for violation of this section or any rule or regulation thereunder, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

"(7) ACTIONS BY OTHER STATE OFFICIALS.—In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers.

"(g) STATE LAW NOT PREEMPTED.—

"(1) IN GENERAL.—Nothing in this section or in the regulations prescribed under this

section shall preempt any State law that imposes requirements, regulations, damages, costs, or penalties on changes in a subscriber's selection of a provider of telephone exchange service or telephone toll service that—

"(A) are less restrictive than those imposed under this section; or

"(B) are not inconsistent with those imposed under this section, and were enacted prior to the date of enactment of the Telecommunications Competition and Consumer Protection Act of 1998.

"(2) EFFECT ON STATE COURT PROCEEDINGS.—Except as provided in subsection (f)(6), nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State not preempted by this section.

"(h) RULES OF CONSTRUCTION.—

"(1) CHANGE INCLUDES INITIAL SELECTION.—For purposes of this section, the initiation of telephone toll service to a subscriber by a telecommunications carrier shall be treated as achange in selection of a provider of telephone toll service.

"(2) ACTION BY UNAFFILIATED RESELLER NOT IMPUTED TO CARRIER.—No telecommunications carrier may be found in violation of this section solely on the basis of a violation of this section by an unaffiliated reseller of that carrier's services or facilities.

"(i) DEFINITIONS.—For purposes of this section:

"(1) SUBSCRIBER.—The term 'subscriber' means the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service.

"(2) EXECUTING CARRIER.—The term 'executing carrier' means, with respect to any change in the provider of local exchange service or telephone toll service, the local exchange carrier that executed such change.

"(3) ATTORNEY GENERAL.—The term 'attorney general' means the chief legal officer of a State.".

(b) NTIA STUDY OF THIRD-PARTY ADMINISTRATION.—Within 180 days of enactment of this Act, the National Telecommunications and Information Administration shall report to the Committee on Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility and desirability of establishing a neutral third-party administration system to prevent illegal changes in telephone subscriber carrier selections. The study shall include—

(1) an analysis of the cost of establishing a single national or several independent databases or clearinghouses to verify and submit changes in carrier selections;

(2) the additional cost to carriers, per change in carrier selection, to fund the ongoing operation of any or all such independent databases or clearinghouses; and

(3) the advantages and disadvantages of utilizing independent databases or clearinghouses for verifying and submitting carrier selection changes.

TITLE II—SPAMMING

SEC. 201. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) in order to avoid interference with the rapid development and expansion of commerce over the Internet, the Congress should decline to enact regulatory legislation with respect to unfair or intrusive practices on the Internet that the private sector can, given a sufficient opportunity, deter or prevent; and

(2) it is the responsibility of the private sector to use that opportunity promptly to adopt, implement, and enforce measures to deter and prevent the improper use of unsolicited commercial electronic mail.

TITLE III—GWCS AUCTION DEADLINE

SEC. 301. ELIMINATION OF ARBITRARY AUCTION DEADLINE.

Section 309(j)(9) of the Communications Act of 1934 (47 U.S.C. 309(j)(9)) is amended by striking ", not later than 5 years after the date of enactment of this subsection,".

TITLE IV—REINSTATEMENT OF CERTAIN APPLICANTS

SEC. 401. REINSTATEMENT OF APPLICANTS AS TENTATIVE SELECTEES.

(a) IN GENERAL.—Notwithstanding the order of the Federal Communications Commission in the proceeding described in subsection (b), the Commission shall—

(1) reinstate each applicant as a tentative selectee under the covered rural service area licensing proceeding; and

(2) permit each applicant to amend its application, to the extent necessary to update factual information and to comply with the rules of the Commission, at any time before the Commission's final licensing action in the covered rural service area licensing proceeding.

(b) EXEMPTION FROM PETITIONS TO DENY.—For purposes of the amended applications filed pursuant to section 501(a)(2), the provisions of section 309(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) shall not apply.

(c) PROCEEDING.—The proceeding described in this subsection is the proceeding of the Commission In re Applications of Cellwave Telephone Services L.P, Futurewave General Partners L.P., and Great Western Cellular Partners, 7 FCC Rcd No. 19 (1992).

SEC. 402. CONTINUATION OF LICENSE PROCEEDING; FEE ASSESSMENT.

(a) AWARD OF LICENSES.—The Commission shall award licenses under the covered rural service area licensing proceeding within 90 days after the date of the enactment of this title.

(b) SERVICE REQUIREMENTS.—The Commission shall provide that, as a condition of an applicant receiving a license pursuant to the covered rural service area licensing proceeding, the applicant shall provide cellular radiotelephone service to subscribers in accordance with sections 22.946 and 22.947 of the Commission's rules (47 CFR 22.946, 22.947); except that the time period applicable under section 22.947 of the Commission's rules (or any successor rule) to the applicants identified in subparagraphs (A) and (B) of section 404(1) shall be 3 years rather than 5 years and the waiver authority of the Commission shall apply to such 3-year period.

(c) CALCULATION OF LICENSE FEE.—

(1) FEE REQUIRED.—The Commission shall establish a fee for each of the licenses under the covered rural service area licensing proceeding. In determining the amount of the fee, the Commission shall consider—

(A) the average price paid per person served in the Commission's Cellular Unserved Auction (Auction No. 12); and

(B) the settlement payments required to be paid by the permittees pursuant to the consent decree set forth in the Commission's order, In re the Tellesis Partners (7 FCC Rcd 3168 (1992)), multiplying such payments by two.

(2) NOTICE OF FEE.—Within 30 days after the date an applicant files the amended application permitted by section 501(a)(2), the Commission shall notify each applicant of the fee established for the license associated with its application.

(d) PAYMENT FOR LICENSES.—No later than May 31, 2000, each applicant shall pay to the Commission the fee established pursuant to subsection (c) of this section for the license granted under subsection (a).

(e) AUCTION AUTHORITY.—If, after the amendment of an application pursuant to section 401(a)(2) of this title, the Commission finds that the applicant is ineligible for grant of a license to provide cellular radiotelephone services for a rural service area or the applicant does not meet the requirements under subsection (b) of this section, the Commission shall grant the license for which the applicant is the tentative selectee (pursuant to section 401(a)(1)) by competitive bidding pursuant to section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

SEC. 403. PROHIBITION OF TRANSFER.

During the 5-year period that begins on the date that an applicant is granted any license pursuant to section 401, the Commission may not authorize the transfer or assignment of that license under section 310 of the Communications Act of 1934 (47 U.S.C. 310). Nothing in this title may be construed to prohibit any applicant granted a license pursuant to section 401 from contracting with other licensees to improve cellular telephone service.

SEC. 404. DEFINITIONS.

For the purposes of this title, the following definitions shall apply:

(1) APPLICANT.—The term "applicant" means—

(A) Great Western Cellular Partners, a California general partnership chosen by the Commission as tentative selectee for RSA #492 on May 4, 1989;

(B) Monroe Telephone Services L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #370 on August 24, 1989 (formerly Cellwave Telephone Services L.P.); and

(C) FutureWave General Partners L.P., a Delaware limited partnership chosen by the Commission as tentative selectee for RSA #615 on May 25, 1990.

(2) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(3) COVERED RURAL SERVICE AREA LICENSING PROCEEDING.—The term "covered rural service area licensing proceeding" means the proceeding of the Commission for the grant of cellular radiotelephone licenses for rural service areas #492 (Minnesota 11), #370 (Florida 11), and #615 (Pennsylvania 4).

(4) TENTATIVE SELECTEE.—The term "tentative selectee" means a party that has been selected by the Commission under a licensing proceeding for grant of a license, but has not yet been granted the license because the Commission has not yet determined whether the party is qualified under the Commission's rules for grant of the license.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks and include extraneous material on 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. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I rise in strong support of H.R. 3888 and against the scourge of "slamming." The practice of slamming will only increase as competition expands into the local telephone and short-haul telephone markets. While I want competition to develop, slamming should not. Indeed, my wife and I were slammed, so I like to think that I bring a little first-hand knowledge to the issue.

In the Telecommunications Act of 1996, we gave the FCC significant authority to eliminate slamming, but for some reason they have decided not to use it. Accordingly, we find it necessary to again address the issue of slamming legislatively. But this time we have removed a significant portion of the flexibility given to the FCC. In its place, we have spelled out a twofold approach to eliminate slamming.

In the first instance, we allow carriers to self-regulate. The carriers have said that they want to eliminate slamming, and we will see if they can live up to their word.

For those carriers that cannot, they will be subject to the heavy hand of FCC regulation. We anticipate that carriers will see the light and stop slamming on their own. In fact, I very recently received a letter from many of the carriers from the telecommunications industry endorsing this legislation. By giving the industry an opportunity to lead on this issue, we are trying to avoid imposing the kind of regulation that would raise the cost of doing business and serve as a barrier to entry for entrepreneurs.

At the same time, we have provided for significant penalties for those companies that choose to violate the law. We have also achieved a balance between the need to give companies the ability to standardize their business practices and keep their costs low and the need to allow State officials to enforce State statutes against consumer fraud.

Let me also point out that the manager's amendment to H.R. 3888 that we are considering today does not include provisions that would resolve the C-block P–C–S auction debacle.

The version reported by the committee included provisions that would have brought an end to the thickening legal and regulatory quagmire that the C-block has become. Unfortunately, though, CBO and OMB allege that the committee's C-block provisions are too costly. This is misguided, as well as shortsighted.

At this rate, the government will end up with very little to show for all of its efforts in trying to resolve the C-block debacle. The taxpayers will be lucky if they get 10 cents on the dollar. Meanwhile, scarce and valuable spectrum sits on the shelf, collecting dust rather than promoting competition for mobile services.

It is a bit like that advertisement from Fram oil filters where the fellow says, "You can pay me now, or you can pay me later." We ought to be facing the inevitable in recycling the C-block mess today, but we are not, and that is regrettable indeed. Mark my words, Congress at some point will have to step in and resolve this mess, and then the cost will be substantially higher than the CBO and OMB allege that it is today.

In closing, Madam Speaker, I want to thank the hard work of our telecommunications chair, the gentleman from Louisiana (Mr. TAUZIN).

Lastly, let me thank my good friends, the gentleman from Michigan (Mr. DINGELL), the ranking member of the committee, and the gentleman from Massachusetts (Mr. MARKEY), the ranking member of the subcommittee, for their valuable input.

While I would have preferred this legislation to include provisions to resolve the C-block matter, it is still a good bill, and it deserves the support of the Members of the House.

Madam Speaker, the Manager's Amendment to H.R. 3888, which the House is considering today, includes several changes to the version of the bill reported by the Commerce Committee. I therefore would like to supplement the legislative history contained in the Committee's report so as to reflect the changes in the Manager's Amendment.

SLAMMING

I am pleased that, as amended by the Commerce Committee, H.R. 3888 takes a nonregulatory and less bureaucratic approach than the earlier Subcommittee-approved version of this bill. As a consequence, there are associated cost benefits for smaller, entrepreneurial companies. In adopting the Code of Subscriber Protection Practices provisions of H.R. 3888, we seek to provide a two-pronged approach to encourage carriers to adopt proconsumer practices.

Carriers can accede to the high level of oversight and cooperation required under the Code, including record keeping requirements, instituting a quality control program for inadvertent slamming, and importantly, submitting to independent audits. These carriers are accountable for any questionable behavior, they must refund charges found to be improper, and they may lose their Code status for failure to adhere in good faith to applicable provisions of the Code. Carriers that lose their Code status may be subject to penalties in accordance with the non-Code regulations. The penalties would apply equally to those companies that have either not elected the Code, or who have elected the Code, then lost their Code status. Thus, by adopting the Code provisions of H.R. 3888, Congress intended adherence to the Code to represent a "safe harbor" with regard to the fines and punishments reserved for non-Code carriers. Accordingly, the FCC, as it prescribes the Code, is not authorized to impose penalties (beyond reimbursement) on carriers who elect and abide by the Code.

H.R. 3888 further demonstrates Congress' intention that, where a consumer is improperly switched to a new carrier without authorization, the consumer may be reimbursed for fees associated with being switched back to the original carrier and be credited for telecommunications charges incurred for up to 30 days while the consumer was improperly subscribed. The legislation directs that the Code shall prescribe a method for a consumer to make an allegation of a violation, for the carrier to rebut the allegation, and for the consumer to challenge the rebuttal. Thus, a consumer will not receive a credit where the carrier has, by providing proof of verification, successfully rebutted the allegation that the consumer was switched improperly.

The legislation also directs, in cases involving slamming allegations against non-Code carriers, that the local exchange carrier automatically switch consumers back to their previously authorized carrier. The Manager's Amendment now clarifies that the previously authorized carrier is the one that is "reflected in the records of the executing carrier." It is possible that the local exchange carrier's records may not reflect the consumer's true choice of carriers, if that choice was a long distance reseller. Thus, a question arises as to how consumers will be assured they are switched back to their carrier of choice. The Committee intends that an executing carrier will restore a subscriber to the originally authorized carrier, as specified by the subscriber, with a minimum of disruption. The Committee recognizes that there may be difficulty in identifying the subscriber's originally authorized carrier, particularly when the originally authorized carrier is a switchless reseller. For this reason, the Committee intends that the FCC address this issue as it promulgates rules implementing this legislation.

Finally, one of the important compromises we have made in crafting the Manager's Amendment deals with the applicability of existing State law. This provision protects both Federal and State prerogatives. We are mindful of the appropriate prerogatives of State legislatures and State regulatory agencies in this area. At the same time, Congress would be abdicating its responsibilities if it did not ensure that a national framework was in place to guard against balkanization of appropriate policy to protect consumers and to safeguard competition. Consumers will not be protected from nefarious "slamming" practices unless we can assure them that a consistent national remedy is in place. Similarly, we cannot guard against excessive costs in the provision of telecommunications services unless we adopt this consensus legislative formula for balancing respective Federal and State interests.

C–BLOCK

As I stated earlier, the Manager's Amendment to H.R. 3888 does not include provisions to address the growing C-block debacle. This is unfortunate, given that the country now faces a deteriorating spectrum managements crisis.

Five years ago Congress passed legislation, subsequently signed into law as part of the

Omnibus Budget Reconciliation Act of 1993, that fundamentally changed how spectrum was to be licensed in this country. Congress recognized the shortcomings of both the comparative hearing process, which was too lengthy and inefficient, and the lottery process, which was inequitable and short-changed the American people, when they were applied in certain instances of licensing.

Congress determined that, in certain very specific instances, where mutually exclusive applications were filed for a license, a system of competitive bidding would be a better solution. Congress found that an auction is faster than a comparative hearing, puts the license presumably in the hands of the person who values it the most, and it recoups for the public "a portion of the value of the public spectrum resource made available for commercial use."

The goal of the 1993 spectrum law is wholly consistent with the bedrock principle that is at the very foundation of the Communications Act. That goal is to get licenses in the hands of entities as quickly and efficiently as possible so that they in turn, are able to deliver services to very core of the 1993 law. That is how Congress and the FCC best serve the public interest. And, on balance, the Commission had done a creditable job of instituting the competitive bidding process.

As part of the spectrum law, Congress also intended to create a more competitive landscape in the wireless market by "avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants." The FCC responded to that statutory mandate with the creation of an "entrepreneurs' block" (the so-called "C block") of licenses that would be made available to small businesses, and would not be available to the incumbents. The auction for those license closed in May 1996.

Since that time, the C block has turned into a nightmare. The Commission's post-auction behavior undermined the goal of the statute—to get licenses in the hands of licensees as quickly and efficiently as possible so that service to the public is forthcoming expeditiously. The statute explicitly contemplates that the end of the auction and subsequent evaluation of the qualifications of a high bidder to hold a spectrum license must be conducted as contemporaneously as possible. By creating an unreasonable and inexplicable delay between these two events for some of the largest bidders with biggest footprints, the FCC exposed these two events for some of the largest bidders with biggest footprints, the FCC exposed these bidders to the risk that market forces might alter the assumptions on which bids were made in ways no one could have anticipated. These bidders were powerless during the unexpected and unjustifiable licensing process that followed the close of the auction and totally exposed to the vagaries of the commercial marketplace.

Many other C-block licensees were, in some measure, waiting for resolution of the licensing process for the largest bidders to develop strategic alliances and to put their own business plans in place. Thus, the Commission's failure to act in a timely and responsible fashion in licensing certain C-block licensees effectively cut the legs out from under the entire C-block. Consequently, less than 10 percent of the C-block licenses are in productive use for American consumers; the rest are in bankruptcy, returned to the FCC, or otherwise still on the sideline. A 10 percent success rate five years after the law was passed is unacceptable.

What is particularly vexing, however, is that, since early 1997, the Commerce Committee has repeatedly reminded the FCC about the importance of deploying spectrum-based services as rapidly as possible. We have devoted significant time and energy offering restructuring solutions that, had they been adopted, might have avoided the mess the C-block has become.

At a recent hearing on the C-block matter before the Commerce Committee, it was clear that the Commission is unable or unwilling to take the steps necessary to resolve these bankruptcy matters as expeditiously as possible in fulfillment of its statutory obligation to help bring service to the public. It is now time for Congress to step in and solve the problem as best it can: the fairest way to all parties is to simply unwind the C-block auction, like any commercial transaction gone wrong, and re-do the deal. That is precisely what H.R. 3888, as reported by the Commerce Committee, would have done—it would have put licensees and those who bid for licenses as close to back to where they were before the auction took place.

To the degree there was concern about the budget impact of this proposal, I would point out that it has been difficult to gauge the real budgetary impact of Congressional action. I have serious questions about the cost estimates provided by both CBO and OMB, given the uncertainty surrounding the C-block reauction, the bankruptcies and related litigation. Neither CBO nor OMB has been able to provide firm data to back up this estimate.

Rather than focusing these fictional accounting estimates, instead, we should recognize that this could have been an opportunity for a real solution to the C-block dilemma. The public policy goal of bringing service to the public is best served by mandating a rescission of the C-block auction and to have all the licenses, including those that are currently in bankruptcy and default, available to be re-auctioned as quickly as possible.

Instead, by not acting today, Congress will proling this debacle. I can assure you that our inaction will only lead to more bankruptcies as more and more C-block licensees who today are still technically "solvent" but in reality are teetering on the edge of bankruptcy. Best estimates are that, with these additional bankruptcies, licensees serving 85% or more of the population will be "under water."

So Congress should be on notice: one inaction will result in more lawsuits against the government, and thus more taxpayer dollars being spent on costly bankruptcy litigation. Indeed, just last week, a federal appeals court in New Orleans upheld a judgment against the FCC in favor of the third largest C-block licensee, General Wireless Inc. The court reduced the licensee's debt to 16 cents on the dollar. More judgments like this are sure to follow, and all the while the public/taxpayer is denied competitive new wireless service while the FCC pursues this absurd course of costly, pointless litigation.

Congress should step in and stop this folly now. Instead, we're going to follow the lead of CBO and OMB, whose ledger sheets tell us that a rescission is too costly. I look forward to seeing what their ledger sheets have to say in several months, after more court rulings like the Fifth Circuit's. My guess is that Congress will say that H.R. 3888, as reported by the Committee, would have been a bargain, had we only accepted the offer.

RURAL CELLULAR SERVICE

Title IV of the Manager's Amendment to H.R. 3888 better serves the public interest by guaranteeing that the taxpayer will benefit directly. In exchange for removing certain service obligations which exceeded the requirements imposed upon other cellular licensees, the Commission will establish a fee for each of the licenses based on average auction prices for similar markets and prior settlement agreements reached with similarly situated RSA licensees. This provision will ensure that the applicants that are the subject of Title IV of H.R. 3888 are treated in the same manner as other similarly situated RSA licensees who also entered into a settlement agreement with the Commission and made appropriate payments to the U.S. Treasury.

Hon. THOMAS J. BLILEY, JR.,
Chairman, House Committee on Commerce,
Washington, DC, October 10, 1998.

Re: H.R. 3888, the Telecommunications Competition and Consumer Protection Act of 1998

DEAR CHAIRMAN BLILEY: We wish to express our support for H.R. 3888, the Telecommunications Competition and Consumer Protection Act of 1998. Consumers need action now to protect them against the continued problem of slamming. We believe that this anti-slamming legislation provides a market-based incentive for industry to address the slamming problem by self-regulation, backed up by increased FCC regulation for companies that elect not to participate in an industry-driven Code of Subscriber Protection Practices.

We commend you and your colleagues for your bi-partisan efforts in addressing this important issue. The statutory changes set forth in H.R. 3888, together with tough enforcement by the FCC, should serve to rid the industry of the scourge of slamming.

Sincerely,
American carriers Telecommunications Association (ACTA)
AT&T Corp.
Bell Atlantic
BellSouth
Cable & Wireless
Competitive Telecommunications Association (CompTel)
Excel Communications
Frontier Corp.
GTE Corp.
MCI Worldcom
Telecommunications Resellers Association (TRA)
US West

Madam Speaker, I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I want to commend and thank my colleagues on the committee for the work that they have done. The gentleman from Virginia (Mr. BLILEY) the chairman of the committee; the gentleman from Louisiana

(Mr. TAUZIN), the chairman of the subcommittee, and their staffs. I also want to commend my good friend, the gentleman from Massachusetts (Mr. MARKEY), for having worked closely with me.

We have put together a good piece of legislation, and I commend my colleagues whom I have mentioned by name and many others that I have not for their valuable participation in this matter.

□ 1630

I rise in strong support of H.R. 3888, the Telecommunications Competition and Consumer Protection Act of 1988. This legislation is finally going to put an end to the outrageous illegal and insidious practice of slamming innocent consumers.

No longer can Americans innocent of any wrongdoing be swindled by companies who intentionally switch a customer's long distance service without the permission of that customer. For years customers have been at the mercy of slammers. They have been victimized repeatedly, with little or no recourse. Often they have been billed by carriers at exorbitant rates, and then they must face the further frustration of having a dozen phone calls made to get their services switched back in the face of recalcitrant behaviors by people guilty of serious wrongdoing. Rarely, if ever, have consumers seen a dime of the money that was swindled from them under this iniquitous practice.

This bill will now put consumers in the driver's seat. If a consumer believes he or she has been the victim of slamming, then the burden will shift to the carrier to prove that a switch in service was authorized. Otherwise, the consumer will be entitled to a credit for charges incurred. This is a fair approach, and it makes the playing field level and even. It is my belief it will have a strong and effective effect on the iniquitous practice of slamming.

The bill before us is bipartisan. It uses a novel two-pronged approach to the problem. It provides telecommunications companies with an alternative to traditional regulation. The industry, in conjunction with consumer groups and State regulators, will have the opportunity to develop its own "Code of Subscriber Protection Practices."

This code is designed to reward good actors with less regulation. However, if companies choose not to adopt the code, or to act in bad faith, they will be subject to a higher and more appropriate regulatory burden. Thus, members of the industry are free to choose their own destiny. Consumers will be the winners, in any event.

I want to make a note that there were some provisions which were dropped which I deeply regret. The "carrier freeze" provision would have protected consumers' ability to instruct their local telephone company that no changes could be made in their selection of long-distance provider without their express permission.

This seems to me eminently sensible, and is regrettably missing from this bill. The provision would have been the most effective way to prevent slamming by simply empowering consumers to protect themselves without undue government regulation. I am hopeful that next year this will be addressed.

Finally, I note that I regret that the amendment does not include the text of Title III of H.R. 3888, which concerned the C-block PCS licensees. I would note that our chairman has made a comment which I fully endorse. He has identified the budget problem that is confronted by the committee, and has wisely determined, with his regret and mine, to strip that provision from the bill.

Regrettably, I concur in that decision. I would like to say, however, that CBO's cost estimate of $600 million is the purest of fiction. It is like Peter and the wolf, or perhaps like Peter Pan. The fact is that licensees representing 70 percent of the U.S. population are in bankruptcy. Most of the remaining people in this particular category are teetering on the edge of the bankruptcy that is sure to follow.

It is unlikely that the Federal Government will see most of the revenues that CBO and OMB are projecting. The result is going to be a significant loss to the taxpayers, and something that the Congress will have to address with great vigor during the forthcoming Congress. I would point out that one particular bankruptcy judge has estimated that in certain bankruptcies of this kind, the Federal Government is going to see less than 16 cents on the dollar.

I would hope the Commission is going to reevaluate its policies regarding the C-block, and recognize that its primary goal should be expediting the delivery of service to the public. If the Commissioners do not do so, I am satisfied that we will be back here again next year cleaning up the mess that the Commission is consistently making, and ending the needless litigation and delays that plague the public.

Madam Speaker, this is an excellent bill. I urge my colleagues to vote for it affirmatively and get it passed, so we may proceed to protect the American public and the American consumers.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the chairman of the subcommittee.

Mr. TAUZIN. Madam Speaker, let me first thank the gentleman from Virginia (Chairman BLILEY) and his staff for all the excellent work on this bill, and my cosponsor, the gentleman from Michigan (Mr. DINGELL) for his excellent efforts, and his, as always, great cooperation, as we work toward passage of this anti-slamming legislation.

Again, I would also like to commend and thank my good friend, the gentleman from Massachusetts (Mr. MARKEY), the ranking minority member, for his excellent cooperation and support of this legislation.

The gentleman from Michigan (Mr. DINGELL) and I are here together to offer H.R. 3888, entitled the Telecommunications Competition and Consumer Protection Act of 1998. Why is it called the Consumer Protection Act? Because it is designed to protect consumers against this awful practice where telephone companies switch your service without your permission, often in some fraudulent fashion.

Frankly, we are disappointed that we are here again today having to legislate for the second time on this subject. We thought we gave the Commission 2 years ago enough authority and enough direction to eliminate this practice.

For those who have not heard about it, the volumes of complaints that have come in to the FCC now total some 20,000 just in 1997 alone. It involves this practice where the long distance local or advanced service provider in communications switches the consumer without ever even informing the consumer. Obviously, when you get your telephone bill and find out, if you notice it, you are being served by a different company that you never authorized, and you have just been slammed.

In May of this past year the Senate passed an anti-slamming bill offered by Senator MCCAIN by a vote of 99 to nothing. This should tell us something about how the House and Senate feel about this practice. To me, slamming is very similar to theft. I echo the frustration of the gentleman from Virginia (Chairman BLILEY) that the FCC has failed so far to implement provisions pursuant to the slamming provision that we included in the 1996 telecommunications bill.

Today, after a long, arduous process, we are finally considering a bill aimed at eliminating this awful practice. It reflects changes adopted in both the subcommittee and the full committee. We believe the bill strikes the right balance, it imposes strong anti-slamming provisions, without burdening the industry with costly regulation, or confusing an already wronged and perhaps sometimes confused consumer with a burdensome dispute process.

In short, the way we finally crafted the bill, with great, again, cooperation and support by the chairman and his staff, and the gentleman from Michigan (Mr. DINGELL) and his subcommittee, the ranking minority member, offers a less regulatory approach to solving the very same problem.

It adopts a bifurcated process to the problem. It literally gives telecommunications companies two options. They can either police themselves properly through a voluntary code of subscriber protection practices, a code of conduct, if you will, or if they choose not to, the carrier suffers the consequence of very tough FCC regulation mandated by this bill.

I trust that most, if not all, the carriers will choose to operate under their own code of conduct. The code will prevent slamming, and ensure that consumers are made whole if they have been slammed. If a carrier chooses not to participate or otherwise fails to live up to these codes, then it is subject automatically to the regulatory and legal penalties of the FCC, as contained in our subcommittee version of the bill.

Although some might argue that this is somewhat of a watered-down version, let me make it clear, this gives the industry a single chance to voluntarily police themselves without the specific pro-consumer guidelines and government participation. But if they fail, then these regulations will go into effect.

In addition, the bill preserves the role for the States to prevent slamming. States have taken an active role to eliminate slamming, and the bill preserves the States' discretion to pursue slammers whenever appropriate. In fact we grandfather the more stringent provisions of eight of our States who have in fact enacted anti-slamming legislation.

The gentleman from Michigan (Mr. DINGELL) and I have titled our bill the Telecommunications Competition and Consumer Protection Act of 1998. It is because the amendment is about more than just slamming. Indeed, there are a number of timely consumer and competition-related issues that require the House's urgent attention.

For example, this legislation directs the private sector to help Congress find a solution to the problem of slamming, and also spamming. Spam, as many know, is bulk unsolicited e-mail. It is a nuisance to consumers and a threat to our telecommunications and information infrastructure. Why? Because spam clogs up the e-mail systems, and in fact can clog up one's personal e-mail box.

Still, we have to recognize that Congress does not have the perfect solution to this problem. Hence, it is the sense of Congress that the private sector must address this issue, and the bill asks the private sector to help us achieve the right solution. It respects free speech, and also respects consumers' rights not to be spammed.

Our bill also addresses a critical spectrum management issue, the FCC's refusal for the last 10 years to issue permanent cellular licenses to three underserved rural areas of America. It is time to issue those permanent licenses so that rural consumers in those areas can have the same benefits from the investment in infrastructure, improved services, and competition that has been available in many other parts of America.

Finally, this legislation will end up addressing a problem of illegal CB radio operators who are transmitting signals significantly above legal levels. We are working on the final language of that. We understand that the Senate bill contains provisions which, when we get to conference, we hope to properly resolve.

The bill in the end would, we hope, make it permissible for local law enforcement officers to help us stop the illegal transmission of these signals that interfere with telephone calls and television reception. Hopefully we can resolve this with the Senate as we go forward.

The bill offered by myself and the gentleman from Michigan (Mr. DINGELL) simply says, enough, already. It is time for Congress to take action, to weigh in, to stop slamming, to help prevent spamming, and to make sure these rural customers get service, just like other parts of America. It is a good bill. It is bipartisan, pro-consumer, and we urge the House, indeed, to approve this bill.

Let me make one final comment, Madam Speaker. That is to join my friend, the gentleman from Michigan (Mr. DINGELL) and the chairman of our committee, the gentleman from Virginia (Mr. BLILEY) in regrettably noting that we had to drop the C-block reforms that our committee adopted. We have dropped them because we simply cannot, we think, include them and get final support of this bill.

Unfortunately, because we are dropping them, the C-block mess will go on just a little longer. For consumers out there who do not know what a C-block is, a C-block was a section of spectrum that was auctioned off for wireless services in America for which now we find ourselves in bankruptcy disputes.

Many of these companies are returning the spectrum unused, with all of these potential wireless services being denied consumers, and the government having to settle for as little as 10 cents on the dollar of the auction fees. It begs for a solution. In our bill we provided a solution, only to learn that it is too late in the session for us to get agreement with the other side in that solution.

However, I want to make a pledge to this House and to the members of the general public out there who have watched this mess develop. We will, at the first chance next year, embark upon a solution of the C-block mess to get the spectrum out so Americans could have the benefit of it, and to make sure that the American taxpayer is properly protected in this mess that has been allowed to go on for too long.

It is time for America to realize revenues from the deployment of this spectrum, and for consumers to realize the benefits of the use of this spectrum. Our committee, under the leadership of the gentleman from Virginia (Chairman BLILEY) and the ranking minority member, the gentleman from Michigan (Mr. DINGELL), are determined to make sure we get a resolution of this matter as soon as we can in the next Congress.

Madam Speaker, again I want to thank the gentleman from Virginia (Mr. BLILEY), and as I said, his great staff, for making this bill possible. It is the hope that before we wrap this session we will make it very clear that spamming will be hopefully resolved in the marketplace, and slamming will soon be illegal, and that folks who live in rural areas will soon get the service the FCC has denied them for 10 years now.

Mr. DINGELL. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Madam Speaker, I thank my good friend and colleague, the gentleman from Michigan (Mr. DINGELL) for yielding me time and allowing me to speak on this bill.

Madam Speaker, I rise in support of H.R. 3888, the Anti-Slamming Amendments Act. As a member of the Subcommittee on Telecommunications, Trade, and Consumer Protection, Madam Speaker, I am glad this bill will hopefully be passed and the Senate will consider it.

Slamming is a deceptive practice of switching the consumer's long-distance service, either unknowingly or unwillingly. As a victim of slamming this last summer in my own household, like most of us, I asked my grown children, I said, who changed our long-distance carrier? Of course, they denied it. The carrier we were changed to was one who I would never use at all, Madam Speaker, because they have terrible labor relations, particularly in the Hispanic community.

We received lots of calls in our district on the need to fight slamming, and today I believe we have a partial solution in front of us.

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It could have been much stronger, and I think the gentleman from Louisiana (Mr. TAUZIN), chairman of the subcommittee, pointed that out. Any time we pass legislation, we have to compromise. But, hopefully, this is a step in the right direction.

H.R. 3888 does two things. First, consumers are automatically switched back to their original carriers and are provided a credit for no more than 30 days worth of charges. Second, this bill weeds out the companies that continue to deceptively slam consumers by making them pay to switch back consumers, by providing a credit for charges, and by paying a $500 fine to

both the slammed consumer and the original carrier. And the FCC may impose another $1,000 fine on the slamming company.

Again, this goes a partial way. Hopefully, if this does not work we will come back next session to see if we need to beef it up again. H.R. 3888 protects the consumer and makes switching back to their original carrier easier and imposes no financial burden to them, although when I had to switch back I did not have any financial burden either.

This legislation has wide support among consumer groups and the telecommunications industry and the administration, and the anti-slamming amendment also grandfathers all existing State anti-slamming laws, such as we have in my home district in Texas.

Finally, we could have also done more on the anti-spamming, unsolicited e-mail advertisements. And as a cosponsor of an original bill on anti-spamming, I had hoped to go much further, and this is an issue that the next Congress should address.

Madam Speaker, I rise in support of this legislation, and I urge my colleagues to support it.

Mr. BLILEY. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Speaker, it has been a long process on this bill to refine it and make it acceptable to industry. And for many, like myself, in our State of Florida they have been very successful in stopping slamming. There has been millions of dollars collected in fees. So while an original cosponsor of this bill, I did not want to create an overly regulatory, burdensome bill to address slamming, because I felt in my State we had made a strong effort to combat it.

Congress has already attempted to address the problem of slamming through the Telecommunications Act by codifying a new section in the Communications Act to close the abusive loophole that was created by the breakup of AT&T in 1984. This new section in the act gave the FCC the power, gave the power to the FCC to issue new regulations to prevent slamming.

Unfortunately, the FCC did not act in the direction that Congress had given it, and there was frustration on the part of many of the members on the Subcommittee on Telecommunications, Trade, and Consumer Protection because they had not moved forward.

It appeared the problem of slamming grew worse instead of better after the passage of the act. It was reported that the number of slamming complaints to the FCC rose to approximately 20,000 in 1997. Madam Speaker, this is a 56 percent increase over 1996. So, from 1996 to 1997, there was a 56 percent increase. The situation looked like it was getting worse.

So, Congress had only one option: to create legislation to end this fraudulent, abusive practice. Under the leadership of the gentleman from Louisiana (Chairman TAUZIN), the gentleman from Virginia (Chairman BLILEY), and the gentleman from Michigan (Mr. DINGELL), the ranking member, who have worked diligently to work out an ideal compromise, this legislation will allow the FCC and industry to develop a working code for companies to adhere to proper business practices in soliciting new customers.

The focus now will be to allow the industry to develop industry-wide standards that would dramatically decrease the instances of slamming. If a long-distance company refuses to adhere to adopting these standards, they will face extremely stiff penalties for every instance of slamming.

This legislation also promotes the idea of instituting a third-party verification. The bill would require the National Telecommunications and Information Administration to study the feasibility and desirability of establishing a neutral third-party entity to administer changes to subscribers' carrier selections.

Third-party verification will be the best solution because it would allow for a nonregulatory, nonburdensome approach to guide long-distance providers in acquiring new customers.

I think the leadership, the chairman of the committee, the chairman of the subcommittee, and the ranking member have worked very well together to solve this problem. I am hoping it is an ideal compromise which the industry will, of course, support.

Madam Speaker, I urge my colleagues to support this compromise and will ask the FCC and the industry to develop regulations that will not constrict the States' abilities to regulate the conduct of long-distance carriers.

Mr. DINGELL. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Speaker, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time.

Madam Speaker, I strongly support H.R. 3888 today. I have had my personal experience, as a number of people have, in terms of being slammed. I find that I am not unique. The distinguished gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce and the head of the "Congressional Bow Tie Caucus," has similarly been treated, I understand, by the industry.

So I am pleased today with the legislation that is coming forward. But I am concerned that there is one provision that we saw in the Senate that is not included, which I hope that before we are through the legislative process that there will be an opportunity to include. That is the truth in billing provision that was amended into the Senate bill unanimously.

It is very similar to legislation that I have introduced in the House, H.R. 4018, that has over 50 cosponsors. Truth in billing would require that the telephone carriers provide accurate information to customers about both the increases and reductions in consumer charges resulting from regulatory action.

There has been a great deal that has happened as a result of telecommunications deregulation, but I cite just one example: the confusion surrounding the e-rate that speaks to the need for more complete billing information.

Consumers did not understand that the new line items were for all of universal service, including rural telephone service which has been in place for some 60 years. Nor did they understand that the cost to current phone companies had already been reduced by, we think, approximately $3 billion, which is far more than we were talking about with the e-rate, which would have provided access to the Internet for our schools and libraries.

Madam Speaker, I hope that we will be able, as I say, to refer to the provisions of H.R. 4018, the truth in billing, because the FCC does have, although it has initiated rulemaking for truth in billing, it is a step in the right direction. But it is important that the FCC's action be grounded in specific legislative authorization.

I would fear that we not be silent on giving consumers clarity on their phone bill. This Congress has much to be pleased with the progress that has been made. I think giving full disclosure about increases and decreases in the phone rates that are charged by the phone companies will give consumers the information they need to adequately make their assessments.

Madam Speaker, I hope that the House will accept any Senate amendments to include truth in billing.

As one who had my long distance carrier switched without my knowledge, I strongly support efforts to end this unscrupulous practice.

I want to take a minute to talk about a consumer protection that the Senate included in its anti-slamming bill, that is not in the bill before us today, specifically truth in billing.

Truth in billing requires that telephone carriers provide information about *both* increases and reductions in consumer charges resulting from regulatory actions—this is absolutely critical if consumers are to have a clear understanding of how deregulation of the telecommunications marketplace affects their pocketbook.

The recent controversy over line item charges associated with the E-Rate is a perfect example of the confusion that can be caused by incomplete billing information.

Consumers did not understand that most of the new line items were for programs which have been in place for 60 years to provide service to rural areas.

Nor did they understand that costs to phone companies had already been reduced by more than they were being asked to pay the e-rate.

My legislation to provide for some truth in billing currently has 50 cosponsors.

Some might say that this legislation is unnecessary, since the FCC has initiated a rulemaking on truth in billing. I am hopeful that their process will be successful. However, I think this critical proceeding must be grounded in specific legislative authorization.

Congress cannot be silent on giving consumers clarity about their phone bills. Should this bill come back from the Senate with this language, I urge my colleagues to accept it.

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

Mr. DINGELL. Madam Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Speaker, I thank the distinguished gentleman from Michigan (Mr. DINGELL) for yielding the time to me.

Madam Speaker, I am pleased that the committee has taken action in the area of consumer telephone slamming. I introduced the first bill on this subject on July 9, 1997, with the gentlewoman from Colorado (Ms. DEGETTE), the gentleman from New Jersey (Mr. FRANKS), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Connecticut (Mr. SHAYS), the gentleman from Oregon (Mr. BLUMENAUER), and the gentleman from Oregon (Mr. SMITH). It was a bipartisan approach to a problem created by a little too much deregulation.

Now a number of people listed on my bill were here and voted for the telecommunications deregulation. I did not. I was one of 16. I foresaw many of these anti-consumer problems coming from totally unfettered deregulation, and I am pleased to see that the committee recognizes that either the industry has to adopt a strict code to stop slamming people for profit, or there will be new rules in place to take the profit out of that activity.

Madam Speaker, I think the committee could have gone a bit further. I know the industry objects strongly to having written authorization. I do not believe that would impede the commerce in this industry and believe it would make even one more step toward fully protecting consumers. So we may find that steps taken are not totally adequate, but this is progress.

Sometimes when huge industries get deregulated, consumers get shafted. They have been shafted now for 2 years by unscrupulous members of the industry who are slamming them for profit. This bill will go a long way toward closing that door on the unscrupulous operators. I congratulate the committee on taking the first steps in this area.

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

Mr. BLILEY. Madam Speaker, I would just say in closing to the gentleman from Oregon (Mr. DEFAZIO), who just spoke, that if this does not work, we will be back with additional legislation.

Mr. MARKEY. Madam Speaker, this legislation deals with the issue of slamming and it attempts to combat the unauthorized switching of a consumer's telephone carrier of choice. I want to thank Chairman BLILEY and Chairman TAUZIN, along with Mr. DINGELL, for their leadership in bringing this bill to the floor.

This legislation will provide consumers with additional protections in an effort to thwart the problem of slamming while and giving further incentives to the industry. Hopefully these additional provisions will bring unauthorized carrier switches down to a minimum.

In addition, the bill offered to the House today ensures that these additional consumer protections are implemented in a way that is streamlined from a regulatory perspective and that treats carriers in a competitively neutral way. There's no question that every carrier and every industry segment is looking for its proper fair advantage to be built into the rules. I believe that the amendment that will be offered today wisely keeps intra-industry squabbles on the sidelines and focuses on the job at hand which is to address slamming in a way that protects the public in a competitively neutral way.

Finally, I want to thank Chairman TAUZIN for including in this bill a provision that I had in my slamming legislation which tasks the NTIA in the Commerce Department with the job of conducting an analysis into third-party verification administration. My feeling is that at the root of the problem with slamming is that the carriers have a financial stake in making unauthorized switches or freezing their customers from switching to others. I believe that ultimately, the long-term solution to this problem is to take away the authority to authorize switches or freezes from those who have a clear financial incentive to authorize such action. The NTIA is asked to explore the feasibility of an independent administrator or a series of independent regional verifying agents to authorize switches and validate switches before consumers have their telephone company changed.

One example of why we may need to go to the implementation of a third party administrator or administrators can be seen by the recent use of something referred to as a "PIC freeze." A PIC freeze is styled as a pro-consumer service offered by local phone companies to their customers whereby the local phone company promises not to change or modify the customer's service without direct instruction from the customer. While this may be quite appealing to some consumers, there is also significant competitive percussions that flow from such a service offering. The local phone companies might also utilize the PIC freeze device to lock up their own customers and impede competition by making it much more difficult for competitors to obtain and effectively and efficiently switch customers.

There has to be a balance. A PIC freeze device aggressively employed by local telephone monopolies could become a significant impediment to competition in local, intraLATA toll, and ultimately long distance. telecommunications markets. This would obviously thwart the longtime goal of the Congress to introduce widespread and effective competition in all telecommunications markets as rapidly as possible. I wonder where long distance competion would be today if AT&T had vigorously employed offering "PIC freezes" to customer in the immediate aftermath of the breakup of Ma Bell. I suspect that the introduction of competition, and thus lower prices for consumers, would have been significantly retarded if such action had been undertaken.

It's my view that a competitively neutral administrator or administrators could help solve these difficult consumer protection and competition issues. I look forward to NTIA's analysis of these issues.

I'd also like to comment briefly on a provision that was dropped from this bill as it arrives on the floor. In the House Commerce Committee, Chairman TAUZIN offered and the Committee unanimously adopted an additional provision to address policy issues that urgently need to be dealt with in the so-called "C–Block" or "entrepreneurial block" of the broadband PCS service. The recent hearing that the Telecommunications Subcommittee had on the C-block issue was very insightful. Virtually an entire class of FCC licensees is either in bankruptcy, returning its licenses, returning half of its spectrum, or on the verge of bankruptcy.

The C–block provision that the Commerce Committee approved at the Full Committee markup remained true to the fundamental goals of both the 1993 spectrum auction law and the 1996 Telecommunications Act—both were designed to expedite the delivery of telecommunications services to the public and to create new competitive opportunities in the telecommunications industry for small and entrepreneurial businesses.

In previous sessions, Members of the Commerce Committee, and indeed the House as a whole, enthusiastically endorsed the licensing of small businesses. As a result, the "C–Block" in the broadband Personal Communications Services (PCS) auctions was created. This action was taken by the FCC for the express purpose of achieving these two key congressional policy objectives. Along the way, however, a number of adverse events conspired to thwart congressional intent to create more competition and innovation and lower prices for consumers.

First, the "budgeteers" discovered the airwaves. Believing that they had stumbled upon some magical fiscal alchemy that allowed them to literally create billions of dollars out of thin air, those intimately involved with the budget process both here on the Hill and over at OMB set spectrum policy on its head. Taking what was designed to be an efficient and expedited manner of licensing new services, they warped it and turned the FCC into a giant governmental auction house. They then flooded the auction with more and more spectrum

to sell. In addition, judicial and regulatory delays encountered in fashioning the rules for small business licensees, as well as dramatic, unpredictable and quite negative changes in the final markets' receptivity to financing these businesses also put the goals of the Commerce Committee at serious risk.

The result today is that a very large percentage of C–Block spectrum lies fallow. This does neither the taxpayer, nor the taxpayer-consumer any good at all. Consumers are daily paying more for wireless service across the country because these new competitors are not in the marketplace competing for their business. Job creation is also put on hold as dozens of licenses for choice markets languish in bankruptcy court.

Unfortunately, the bill before us today does not contain the C–block provision because of the adverse "scoring" it was to receive from the Congressional Budget Office (CBO) and OMB in the Administration. The particular rules of budget scoring here on the Hill at CBO prevent us from facing reality. The reality is that these licenses are going to languish in bankruptcy and the Congressional policy of rapidly introducing lower prices, innovation, creating jobs and choices for consumers, through new competition will be seriously undermined. OMB, for its part, continues to live in a fiscal fantasy land with respect to how much money these licenses will raise for the Treasury. Rather than admitting its gross error in utilizing phony frequency money to balance the budget or, of late, to increase the surplus, OMB compounds the error by resisting bipartisan legislation to put sound telecommunications policy back on track. This is unfortunate. It's an anti-consumer, anti-taxpayer, anti-worker stance. The result will be a public policy morass.

I hope that we can return to this subject next year and hopefully return integrity to telecommunications policy by cleaning up the problems created by placing auction revenue, above all other values, as our highest public policy goal.

Again, I want to commend Chairman BLILEY, Chairman TAUZIN, Mr. DINGELL, and our other colleagues for their work on this measure and urge the House to support it.

Mr. BLILEY. Madam Speaker, I urge the adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 3888, 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.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. COBLE. Madam Speaker, I move to suspend the rules and agree to the conference report 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.

(For conference report, see proceedings of the House of Thursday, October 8, 1998, at page 24856.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

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

Mr. COBLE. Madam Speaker, I yield 10 minutes of my time to the gentleman from Virginia (Mr. BLILEY) and ask unanimous consent that he be permitted to control that time.

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

There was no objection.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield 10 minutes of my time to the gentleman from Michigan (Mr. DINGELL) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Madam Speaker, I rise in support of H.R. 2281, the Digital Millennium Copyright Act. It is not uncommon on this Hill for many people to take great pride in authorship and oftentimes refer to legislation that comes from our respective committees as "landmark legislation," but I think that all who are familiar with this piece of legislation will agree that this is truly landmark legislation.

H.R. 2281 represents a monumental improvement to our copyright law and will enable the United States to remain the world leader in the protection of intellectual property.

Madam Speaker, we could not have reached this point without the collective efforts of many. I thank the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, for his constant support and guidance. I am also appreciative to the work of the gentleman from Virginia (Mr. GOODLATTE).

I thank the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary, and the gentleman from Massachusetts (Mr. FRANK), ranking member on the Subcommittee on Courts and Intellectual Property. I also thank the gentleman from California (Mr. BERMAN) who invested much time and effort in developing this legislation.

The valuable contributions of several members from the Committee on Commerce must also be recognized: the gentleman from Virginia (Chairman BLILEY); and the gentleman from Michigan (Mr. DINGELL), ranking member; the gentleman from Louisiana (Mr. TAUZIN), chairman of the Subcommittee on Telecommunications, Trade and Consumer Protection; and the gentleman from Massachusetts (Mr. MARKEY), ranking member; as well as the gentleman from Washington (Mr. WHITE); and the gentleman from Colorado (Mr. DAN SCHAEFER), who were also instrumental in facilitating agreement on portions of the bill.

I finally must thank several senators for their diligence in drafting and moving H.R. 2281: the chairman of the Senate Committee on the Judiciary, Senator Orrin HATCH; ranking member, Senator Patrick LEAHY of Vermont; as well as my friend from South Carolina, Senator Strom THURMOND; all were instrumental in bringing about this important achievement in the copyright law.

H.R. 2281 is the most comprehensive copyright bill since 1976 and adds substantial value to our copyright law. It will implement two treaties which are extremely important to ensure adequate protection for American works in countries around the world in the digital age. It does this by making it unlawful to defeat technological protections used by copyright owners to protect their works, including preventing unlawful access and targeting devices made to circumvent encrypted material. *****-*****- Payroll No.: -Name: -Folios: -Date: -Subformat:

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It furthermore makes it unlawful to deliberately alter or delete information provided by a copyright owner which identifies a work, its owner and its permissible uses.

H.R. 2281 furthermore addresses a number of other important copyright issues. It clarifies the circumstances under which on-line and Internet access providers could be liable when infringing material is transmitted on-line through their services. It ensures that independent service organizations do not inadvertently become liable for copyright infringement merely because they have activated a machine in order to service its hardware components. It also creates an efficient statutory licensing system for certain performances and reproductions made by webcasters which will benefit both the users of copyrighted works and the copyright owners.

Unfortunately, in arriving at the final agreement on what would be included in H.R. 2281, title V of the

House-passed version, which provided for limited protection of databases, was removed. I am pleased, however, that we were able to bring that issue so far this session. It is important legislation that will benefit many industries and businesses in the United States, and I intend to work diligently next session to pass it.

I appreciate and would be remiss if I did not mention at this time statements by Senator HATCH and Senator LEAHY made on the floor of the other body that they pledge to take up a database protection bill early in the next Congress.

Madam Speaker, 2281 is necessary legislation to ensure the protection of copyrighted works as the world moves into the digital environment. This will ensure that American works will flourish as we move further into the new millennium.

I urge my colleagues to vote "yes" on H.R. 2281.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I yield myself such time as I may consume.

I rise today in strong support of H.R. 2281, the Digital Millennium Copyright Act, the passage of which many Members on both sides of the issue doubted was one of the priorities of the gentleman from Michigan (Mr. CONYERS) and our committee this year in the Committee on the Judiciary. And we are glad that the committee on which I serve as a member and the gentleman from Michigan (Mr. CONYERS) serves as a ranking member has worked hard in a bipartisan fashion to get this legislation to the President's desk.

Madam Speaker, this is very important legislation, primarily because we are part of a supertechnological society, and we have got to all get along. WIPO implementation and the important explication of liability for those service providers who knowingly transmit infringing material on-line marks a critical achievement for those of us who support strong copyright protections and fairness.

When we started on this journey toward passage today, we pledged to work with the gentleman from Illinois (Mr. HYDE), the gentleman from North Carolina (Mr. COBLE), and I thank them very much for their work, and the gentleman from Massachusetts (Mr. FRANK) to get this done; also the good work of the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL), and the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) for their good works and many others. Members said it could not be done. Members said, do it this way, not that way. But we worked together, cooperatively and successfully.

I am very proud of the work that we have done. We are strengthening domestic copyright law and providing leadership globally so that the United States can continue to impress upon other nations the importance of strong copyright protection.

I am disappointed by some changes that we agreed to make to get this bill into law. I wish we could have done more to strengthen the role of the Patent and Trademark Office within its own agency. I would have preferred to see a database protection bill in this legislation, but we were not able to get that now. That means we will have to start again early next year on that bill, and that is something that we will all work on together. I believe it can be done.

I commend the gentleman from Illinois (Mr. HYDE) and the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) for their hard work, again, on this bill and for the important role that the gentleman from California (Mr. BERMAN) played on the conference committee.

I commend the important copyright industries, the telecommunications industry, the Nation's libraries and importantly the guilds and unions for working cooperatively with us to inform us of the needs they confront in a digital environment. I am proud of the product we have arrived at, and I am also pleased to support it and urge all of my colleagues to be able to support this very important legislation for this 105th Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I rise in support of the conference report on H.R. 2281. I would like to express my admiration and appreciation for the hard work of the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), and his able subcommittee chairman, the gentleman from North Carolina (Mr. COBLE), in producing this important legislation. Through their hard work we have been able to reach consensus on historic legislation to implement the WIPO copyright treaties.

I also would like to thank my ranking member, the gentleman from Michigan (Mr. DINGELL), and the gentleman from Wisconsin (Mr. KLUG) and the gentleman from Virginia (Mr. BOUCHER), who, through their hard work, have substantially improved this legislation. As a result of their steadfast commitment to the principle of fair use, we have produced WIPO implementing legislation of appropriate scope and balance.

Mr. Chairman of the Committee on Commerce, I am pleased to report that the final bill reflects the two most important changes proposed by our committee. First, we have preserved a strong fair use provision for the benefit of libraries, universities and consumers generally. Second, we have ensured that manufacturers of popular telecommunications, computer and consumer electronic products are not subject to a design mandate in producing new products, and that they, retailers, and professional services can make playability adjustments without fear of liability.

Through the able efforts of the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY), we also have included strong provisions on security systems testing, encryption research, and software interoperability development so that these vital activities will continue. And we have included strong consumer protection provisions. In short, we have produced a bill that should help spur the growth of electronic commerce while protecting the creative work of our Nation's content community.

I urge my colleagues to support the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. DINGELL. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, I commend the distinguished gentleman from Virginia (Mr. BLILEY), the distinguished gentleman from Illinois (Mr. HYDE), the distinguished gentleman from North Carolina (Mr. COBLE), my good friend, the gentleman from Michigan (Mr. CONYERS), ranking member of the subcommittee, and the gentlewoman from Texas (Ms. JACKSON-LEE) for the fine work which they have done on this particular matter.

I rise in strong support of the conference report, which I believe will implement two World Intellectual Property Organization copyright treaties.

The bill was produced through the hard work and the cooperation of two committees, and it is the conference committee that has largely adopted the provisions which were added to the bill by the Committee on Commerce.

We are now considering WIPO implementing legislation that strikes a proper balance between copyright owners and information consumers. It is very clear to us that we need to have the protection of the fair use provisions which had previously been in the law. This we have done. We have included strong privacy protection for consumers. We have permitted electronic manufacturers to make design adjustments to their products to ensure that consumers will receive the best playback quality without fear of liability. We have also added provisions safeguarding encryption research, security systems testing and computer interoperability. At the same time we gave content owners the tools to discourage the production of illegal black boxes which open the door to piracy. Thus the bill will continue faster innovation without stifling the growth of electronic commerce.

The bill is a good one. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. COBLE. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER), who has been very helpful and very supportive in this matter.

Mr. DREIER. Madam Speaker, I thank my friend from Greensboro for yielding me this time and for his great leadership, along with that of my friend from Richmond, who has worked long and hard on this, and the gentleman from Thibodaux, Louisiana, and my colleagues on the other side of the aisle who have done a great job on this.

Clearly, as we look at the problems that we face as a Nation, and as we move rapidly towards this global economy, it is difficult to imagine an issue that is much more important than theft of intellectual property. Property rights are an issue which we talk about regularly, and implementation of this WIPO treaty and our support of it is, I believe, going to go a long way towards ensuring that the property of individuals is not in any way jeopardized.

If we look at figures, most recently in 1996, there are estimates that $7.6 billion in theft of film, books, music and software has taken place, and many of us believe that that figure has actually gotten higher in the past 2 years. It is a problem which obviously continues to be in the forefront and is going to be there unless we have full implementation of this.

We have U.S. industries involved in a wide range of areas, and we are creating new ideas here in the United States and are in the forefront as the world's greatest information exporter and importer. And as such, these new ideas are creating opportunities for people who steal these proposals. So that is why implementation of WIPO is so important.

I want to say that as we look at not only the film and entertainment industries, but the biotech industry and what I believe will be many new industries that are developing in this country in the coming years, WIPO is so important for that. I urge my colleagues in a bipartisan way to support this measure.

I again congratulate my colleagues who played such a key role in working with us on it.

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

I first wanted to thank my colleague and dean of the House, the gentleman from Michigan (Mr. DINGELL), for sharing this legislative product with us, he and the Committee on Commerce and the subcommittee of the Committee on the Judiciary. I think everyone has heard that we finally reached a conclusion that I think may satisfy nearly every Member in the House of Representatives.

This Digital Millennium Copyright Act, the legislation which was at one time in a doubtful state of passage by many, has now come before the floor. And as the ranking member on the Committee on the Judiciary, I am proud to suggest that this is a bipartisan product, a work that has been thoroughly reviewed by two committees and two subcommittees in this House alone and is certainly worthy of being signed into law by the President.

The WIPO implementation and the important explication of the liability for those service providers who knowingly transmit infringing material online marks a critical achievement for those of us who support strong copyright protection and the fairness that goes with it.

When we started on the journey toward the passage that I think is in front of us, I pledged to work with the gentleman from Illinois (Mr. HYDE), the gentleman from North Carolina (Mr. COBLE), subcommittee chairman, and the ranking member, the gentleman from Massachusetts (Mr. FRANK), to make sure that this was done. Although it was thought not to be possible at the time, I think this work exemplifies the kind of bipartisanship that this Congress has and should continue to have as we move forward in other matters.

□ 1715

We are strengthening domestic copyright law and providing global leadership so that this great Nation can continue to impress upon other nations the importance of strong copyright protection.

Now, not all the provisions have reached a level of perfection. We might have done more to strengthen the role of the Patent and Trademark Office within its own agency. This Member would have preferred to see a database protection bill included in the measure before us. But that was not possible. Which means that we will begin again in the next Congress, all of us who are so honored by our constituents to return. We will have to start all over again in this area, and it is something that I urge my colleagues in both committees to take seriously.

I again commend the chairman of the Committee on Commerce, and the ranking member, and all of those in the Judiciary that worked on it. The gentleman from California (Mr. HOWARD BERMAN) played an important role in the conference committee. And so, too, of great assistance was the copyright industry, the telecommunications people, the Nation's libraries and librarians, the unions and the guilds who worked cooperatively with us to inform us of the needs that they confront in this digital environment.

I am proud of the product, and like all the speakers before me, I urge its favorable confirmation.

Madam Speaker, I would like to emphasize that it was my decision to share this time with Mr. DINGELL, the Ranking member of the House Commerce Committee. Under the rules, all of the time would have come to the Judiciary Committee, but I am deciding to share the time for two reasons.

The first reason is the respect and fondness that I hold for the dean of the House, Mr. DINGELL. He asked that I share the time, and out of respect for his leadership in the House, I was happy to oblige.

Second the parliamentarian ruled that the House Commerce Committee had some legitimate jurisdictional concerns over discrete aspects of the bill. As such House Commerce Committee members were appointed during the House-Senate conference, albeit in lesser numbers. Mr. DINGELL and his Commerce Committee colleagues played a constructive role in bringing this measure to the floor.

The sharing of the time should in no way imply that the two committees are, in any way, on equal footing from a jurisdictional perspective on this measure, but does recognize both my great fondness for the gentleman from Michigan, Mr. DINGELL and the very constructive role that he played in bringing this matter to the floor.

Madam Speaker, I reserve the balance of my time.

Mr. BLILEY. Madam Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. TAUZIN), chairman of the Subcommittee on Telecommunications, Trade, and Consumer Protection of the Committee on Commerce.

Mr. TAUZIN. Madam Speaker, I thank the chairman for yielding me this time. We all know, of course, that we have long ago entered the information age, but what we are about to enter is the new information digital age.

This WIPO Treaty implementation bill is extremely important not just to America and Americans but to citizens of the world. As we enter this information digital age, it becomes increasingly easy for people to make perfect copies of other people's works; their music, their books, their videos, their movies. In short, the WIPO treaty is an attempt worldwide to protect those intellectual properties from thievery, from duplication, from piracy.

How do we protect those works perfectly in a digital world and, at the same time, respect something pretty critical to Americans: The free exchange of ideas and information; the ability of any kid in America to walk into a library and examine free of charge a work of fiction, a book written by one of the masters, to see a video, or to hear some music over the radio, or to operate a simple device like a VCR at home to see a movie later that was played earlier in the day? How do we protect the fair use of those works of art, those intellectual properties and, at the same time, protect them in a digital age?

This House dramatically improved this bill as it left the Senate. As the

Senate had produced the bill, there were no protections for citizens for these fair uses of information in a library, in a bookmobile, with a VCR. As this bill now comes back to the House and Senate from conference, the work of the House Committee on the Judiciary, and the Committee on Commerce, in particular, in making sure that there was a balance between the free exchange of ideas and protecting works in a digital age, were protected in this bill.

The right to do encryption research. The right to be able to webcast music on the internet. All of these issues now have been wrapped into an excellent compromise that I think sets the stage for the rest of the world to follow.

This is a critical day. America provides more information to the world than any other country of the world. Protecting those works in commerce is critical. We set the mark today with a strong implementation bill, but we do it carefully, respecting the right of people to fair use in accessing information in a free society; in making sure that libraries and schools of thought in universities can still do research, and all of us can access information in a society that so prides itself on free speech and the free exchange of information.

To all who have worked on it, the chairman of the full committees, and to all the Members who have put in so many hours, this is a good day, this is a good bill.

Mr. CONYERS. Madam Speaker, might I be informed how much time remains on each side?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Michigan (Mr. CONYERS) has 2½ minutes remaining; the gentleman from Michigan (Mr. DINGELL) has 8½ minutes remaining; the gentleman from North Carolina (Mr. COBLE) has 3 minutes remaining; and the gentleman from Virginia (Mr. BLILEY) has 5 minutes remaining.

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

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

Mr. COBLE. Madam Speaker, did I understand that I have 3 minutes remaining, and that I have the right to close?

The SPEAKER pro tempore. That is correct.

Mr. COBLE. Madam Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KNOLLENBERG), who authored title III of this bill.

Mr. KNOLLENBERG. Madam Speaker, I rise in support of this bill, and I appreciate working with the gentleman from North Carolina (Mr. COBLE). It seems like it has been months, but with the great effort put on by both sides, we have done, I think, a marvelous job, and I am glad this feature is included in the bill.

This provision I introduced ensures that a computer owner may authorize the activation of their computer by a third party for the limited purpose of servicing computer hardware components. The specific problem is when the computer is activated, the software is copied into the ram, the random access memory. This copy is protected under section 117 of the copyright act, as interpreted by the 4th and 9th Circuit Courts of Appeals. This technical correction is extremely important to independent service organizations, or ISOs as they are known, who, without this legislation, are prohibited from turning on a customer's computer.

A weight of litigation has plagued the computer repair market. The detrimental effect is that ISOs are prevented from reading the diagnostics software and, subsequently, cannot service the computer's hardware.

The financial reality is that the multibillion dollar nationwide ISO industry is at risk. This bill provides language that authorizes third parties to make such a copy for the limited use of servicing computer hardware components.

This provision does nothing to threaten the integrity of the Copyright Act and maintains all other protections under the act. The intent of the Copyright Act is to protect and encourage a free marketplace of ideas. However, in this instance, it hurts the free market by preventing ISOs from servicing computers. Furthermore, it limits the consumer's choice of who can service their computer and how competitive a fee can be charged.

I want to thank the gentleman from North Carolina (Mr. COBLE) for working with me on this issue, and I urge support of the bill.

Mr. CONYERS. Madam Speaker, I yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK), the ranking member of the subcommittee, whose extraordinary leadership was key to working out the complicated provisions that have been reflected.

Mr. FRANK of Massachusetts. Madam Speaker, I thank my friend, the gentleman from Michigan (Mr. CONYERS) for yielding, and I want to thank my colleagues on that side for rescuing this very important bill from the attempted mugging that some Members of the Republican leadership had in mind. That was not one of the finest hours of this institution when this bill got derailed because of a dispute about a job.

Madam Speaker, I want to express my satisfaction with what we worked out. As Members have mentioned, we have a tough situation here in which we want to protect intellectual property rights but not interfere with freedom of expression. In the Committee on the Judiciary, we worked very hard in particular in trying to work out a formula that would protect intellectual property rights and not give the online service providers an excessive incentive to censor. That was the difficult part. What I believe is a very important sign is that we were able to do that.

I want to take this time to contrast this with the failure to do a similar reasonable compromise in the bill we passed recently dealing with child pornography or, rather, pornography in general, because in contrast to this very careful compromise, and we in the Committee on the Judiciary were very focused on this because of our concern for free speech, the House passed a bill which includes language which purports to protect children against pornography which, in fact, goes way beyond that. I am speaking now because I hope the President will be persuaded to veto that bill.

We had a bill which says if someone puts on to the Internet material which is harmful to children, and children can see it, they are criminally liable. In other words, we are not dealing with people who are aiming at children. We also said, by the way, that that prohibition applies to material which is not obscene.

It is going to be stricken by the Supreme Court, but we should not have to depend on the Supreme Court to defend us. So I do want to contrast. It seems to me very important to note the care that we took in the Committee on the Judiciary not to impede on free speech and the lack of care that we have elsewhere.

Mr. CONYERS. Madam Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. CONYERS. Madam Speaker, do the provisions in the bill that the gentleman from Massachusetts (Mr. FRANK) refers to apply to government offices that do the same thing?

Mr. FRANK of Massachusetts. We had a conversation about the Starr report, and I think it is an open question as to whether or not the Starr report would have violated that provision.

The problem is this, and here is what we worked on: We have in this country the freest speech in the world, if it is oral, if it is written, if it is printed, but we are developing a second line of law which says electronically-transmitted speech is not as constitutionally protected. We must reverse that trend or we will erode our own freedoms.

Mr. BLILEY. Madam Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Madam Speaker, I thank the chairman for yielding.

Madam Speaker, I speak only to answer the last comments of the gentleman from Massachusetts (Mr. FRANK). The bill we passed on online pornography did not make criminals out of anyone who puts something on the Internet that may be harmful to minors. What it did was to say that it

is criminal for someone to commercially set up a pornography site without establishing some way for parents to be able to say no to that site in their homes. That is all we did.

In fact, if a parent wants to allow his child into that pornographer's site, it can. If the parent wants to look at it, it can. It simply made criminal the act of commercially providing that kind of material without giving parents the opportunity to say no to that material coming into their house.

I hope the President signs that bill. He ought to sign it. It is a good bill that would give parents some control over what comes over the Internet and is available to their children.

Mr. BLILEY. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Madam Speaker, a lot of people have complained today and the last couple of days that Congress has not done anything. I think this bill is a clear example of things we have done. It is probably one of the most important bills that we have passed this Congress. It gives our Nation's copyright holders legal protection internationally to protect their copyright works.

As the chairman, the gentleman from Louisiana (Mr. TAUZIN), mentioned, every year billions of dollars are stolen from American companies from illegal piracy and theft. American companies can now have the freedom to defend their intellectual property.

As my colleagues may recall, the bill as reported out of the Committee on the Judiciary did not contain a definition of, "technological protection measure." Myself and other members of the committee were concerned about this lack of such a definition. It was very problematic.

The committee agreed it was an important enough issue to state in its report that those measures covered by the bill are those based upon encryption, scrambling, authentication and some other measure which requires the use of, quote, a key provided by a copyright holder.

Another achievement of the conference was to include specific report language addressing the playability concerns of product manufacturers.

The report explicitly provides that manufacturers or professional servicers of consumer electronics, telecommunications or computing products who take steps solely to mitigate a playability problem may not be deemed to have violated either section 1201 or section 1202.

I would say to my colleagues, we have done something very important today by passing, by recommending this bill to all our colleagues. I urge all my colleagues to vote for it. It is another accomplishment in this session of Congress.

Madam Speaker, this Congress in my opinion has been unfairly maligned about our work product and our accomplishments. I think we have had two very successful sessions and this bill is proof of our hard work.

In fact, this may be the most important bill that we pass for this entire Congress. This legislation will give our nation's copyright holders legal protection internationally to protect their copyright works.

Every year, billions of dollars are stolen from American companies from illegal piracy and theft. American companies can now have the freedom to defend their intellectual property.

As my colleagues can appreciate, it has been a long and hard process to get us to this point. I am particularly pleased that the conference report addressed issues that I had been concerned about. I would like to comment in particular on some of the most important features of the bill.

As my colleagues may recall, the bill as reported by the Judiciary Committee did not contain a definition of "technological protection measure."

I and other members of the Commerce Committee were concerned that the lack of such a definition was very problematic. The Committee agreed it was an important enough issue to state in its report that those measures covered by the bill are those based on encryption, scrambling, authentication, or some other measure which requires the use of a "key" provided by a copyright owner.

Another achievement of the conference was to include specific report language addressing the "playability" concerns of product manufacturers.

The report explicitly provides that manufacturers or professional servicers of consumer electronics, telecommunications, or computing products who take steps solely to mitigate a playability problem may not be deemed to have violated either section 1201 or section 1202.

By eliminating uncertainty and establishing a clear set of rules governing both analog and digital devices, product designers should enjoy the freedom to innovate and bring ever-more exciting new products to market.

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Mr. BLILEY. Madam Speaker, I yield the balance of my time to the gentleman from New York (Mr. LAZIO), a member of the committee.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from New York is recognized for 2 minutes.

Mr. LAZIO of New York. Madam Chairman, let me begin by thanking the gentleman from Virginia, the chairman of the Committee on Commerce, and the gentleman from Louisiana, the subcommittee chairman, and the gentleman from North Carolina, who I have talked about many times at the back rail about this piece of legislation over here, and certainly the gentlemen from the other side.

Madam Speaker, I rise in strong support of this strong balanced bill that we have before us today. The United States must lead the way on copyright law because we have the most at stake. We are far and away the world's largest creator, producer and exporter of copyrighted works. Whether it is movies, music, computer innovation or school textbooks, American ideas and creativity means jobs, exports and economic vitality.

Copyright law provides incentive to invest in intellectual property, but without strong WIPO protections, this incentive will decline and the Nation will be at a loss because of it.

We must protect American copyright workers from the theft of their property, while maintaining the permitted use of copyrighted works for education, research, and criticism. That is what this bill does.

As the undisputed leader in intellectual property, the U.S. has the most to gain from strong international copyright laws. Our laws should be, and will be, the model for the rest of the world to follow. We have the privilege to set the stage and the responsibility to do it right.

The copyright industry is growing nearly three times as fast as the rest of the U.S. economy. The numbers are extraordinary. We are talking about almost 3 percent of the U.S. work force, with exports of over $60 billion.

I urge my colleagues to think about the extraordinary opportunities that await us as consumers, as parents, and as officials concerned about the U.S. economy. By providing the appropriate stimulus to copyright owners, a stimulus first established in the Constitution, we allow the electronic marketplace to be the great boon to America that it promises to be.

Mr. COBLE. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, it has been mentioned about the importance of data base, the importance of patent and trademark. These are two areas, Madam Speaker, that cry out to be addressed, and I regret that they were not addressed in a proper and fitting way this session. I hope it can be done next time, in the 106th session the Congress. I think, from what I have heard today, it will be generously laced with bipartisanship, and I feel optimistic about that.

Having said that, I want to again thank everybody who placed their oars into these waters and I urge the adoption of the conference report on H.R. 2281.

Mr. MARKEY. Madam Speaker, I strongly support passing this bill which implements the World Intellectual Property Organization (WIPO) treaty.

As the digital revolution sweeps over industries and countries it will provide new opportunities for market growth and innovation, easier access to remote information, and new distribution channels for products and services. The United States clearly leads the world in software products such as computer programs, movies, music, books and other multimedia products. In a post-GATT, post-NAFTA environment—in which we have made an implicit national economic decision to essentially

let low-end jobs go and migrate to developing countries—we have an obligation as policymakers to ensure that we establish the climate in which America garners the lion's share of the high end, knowledge-based jobs of the new global economy.

Because digital technology facilitates an almost effortless ability to transmit digitized software information across national borders and also permits exact copies of such work to be made, it is vitally important that the United States take steps to update existing laws by cyberspace. There's no question that protecting the interests of copyright holders will mean that the content community will feel more secure in releasing their works into a digital environment. Because of the worldwide nature of electronic commerce today, it also becomes imperative that we establish treaties with other countries ensuring that our intellectual property—in other words, our high tech jobs—are not compromised overseas.

In deliberating upon this legislation, this Commerce Committee sought to better balance competing interests. This has not been an easy task. Encryption research issues, privacy implications, fair use rights, reverse engineering, and other issues are complicated but represent meaningful public policy perspectives. I am pleased that the bill before us has taken great strides to see that these issues are addressed properly and fairly.

In particular, I commend the conferees for retaining the language that I offered in Committee protecting the individual privacy rights of consumers. This language gives an incentive to the content community to be above board with consumers with respect to personal information that is gathered by technological protection measures or the content or software that it contains or protects. If consumers are given notice of these practices and an opportunity to prohibit or curtail such information gathering then technological protection measures could not be legally defeated. On the other hand, consumers are within their legal rights to defeat such measures if their personal privacy is being undermined without notice or the right to say "no" to such practices. This is a good privacy provision that leaves to the industry the question of whether they want to conspicuously provide notice to consumers of their privacy rights, extending as well the opportunity for a consumer to effectively object to any personal data gathering, and in so doing prevent the defeat of technological protection measures designed to protect the industry's products.

I want to thank Chairman BLILEY, Mr. DINGELL, Chairman TAUZIN, Mr. WAXMAN, and many other members for the incredible amount of time and effort that has been put into the effort of resolving outstanding issues. And I want to thank the members of the Judiciary Committee, Chairman HYDE, Chairman COBLE, Mr. CONYERS, Mr. FRANK, Mr. BERMAN and others for their excellent work on these issues. This is a good conference report and I urge members to enthusiastically support it.

Mr. BERMAN. Madam Speaker, I am very gratified that we finally have before us today the conference report on H.R. 2281, the Digital Millennium Copyright Act. Enactment of this legislation will make it possible for the United States to adhere to the World Intellectual Property Organization (WIPO) Copyright Treaty, and to the WIPO Performances and Phonograms Treaty.

These treaties, in turn will lead to better legal protections for U.S. copyrighted materials—movies, recordings, music, computer programs, videogames, and text materials—around the world, and thus will contribute to increased U.S. exports and foreign sales of this valuable intellectual property, and to a decrease in the unacceptably large levels of piracy these products experience today in far too many overseas markets. As the global market for copyrighted materials increasingly becomes a digitized, networked market, there is no step that Congress can take that is more important for the promotion of global electronic commerce in the fruits of Americans creativity.

This bill is the fruit of many long months of labor and I salute all of those inside and outside this body who worked long and hard together to achieve this goal.

Ms. JACKSON-LEE of Texas. Madam Speaker, thank you for the opportunity to speak on this important bill, H.R. 2281, which amends title 17, of the United States Code. This Bill implements World Intellectual Property Organization's sponsored copyright agreements signed by the United States in Geneva, Switzerland. It also limits the liability on-line and Internet service providers may incur as a result of transmissions traveling through their networks and systems.

Certainly, we all agree that the Internet, the information superhighway, has enhanced and changed our medium of communication forever. With this evolution in technology, the law must conform to provide protection for copyrighted material that is transmitted through this revolutionary tool.

In December 1996, the World Intellectual Property Organization convened to negotiate multilateral treaties to protect copyrighted material in the digital environment and to provide stronger international protection for American recording artists. This bill does not require any substantive changes in the existing copyright laws.

Also, this bill includes language intended to guard against interference with privacy; permits institutions of higher education to continue the fair use of copyrighted material; and a provision to protect service providers from lawsuits when they act to assist copyright owners in limiting and preventing infringement.

H.R. 2281, provides substantial protection to prevent on-line theft of copyrighted materials. This bill demonstrates our commitment to protecting the personal rights and property of American citizens. More importantly, it works to eradicate crime and protect the intellectual property rights of America's corporations. Thus, I am compelled to support this bill.

Mr. DELAHUNT. Madam Speaker, I join my colleagues on the Subcommittee on Courts and Intellectual Property in support of the conference agreement. This bill and the treaties it would implement are of vital importance to America's copyright industries, and I congratulate the conferees on reaching a hard-won agreement in time to send it to the President this year.

The purpose of the treaties is to help curb international piracy of copyrighted works—which costs our country billions of dollars every year—by raising the standards for international copyright protection.

Few states are as seriously affected by software piracy as Massachusetts, which is home to some of the world's leading publishing, information technology and software companies. Last year, some 2,200 Massachusetts-based software companies had 130,000 employees and combined revenues of $7.8 billion.

Piracy has always been a problem for these companies, but with the advent of the digital age, it has reached epidemic proportions. The ability to make perfect digital copies at the click of a mouse—of CDs, movies, and computer programs, has been a tremendous benefit to consumers. But is has also created an enormous black market for pirated copies of these works that are indistinguishable from the originals. Indistinguishable except for the fact that the profits go to criminals running underground operations in places like China and Thailand, rather than to the American authors, composers, songwriters, filmmakers and software developers whose livelihoods depend upon the royalties they earn from sale of their works.

The enactment of this legislation is a major milestone in the battle to ensure that American creativity enjoys the same protection abroad that we provide here at home.

I must voice one regret regarding the failure of the conferees to retain the House-passed provision incorporating H.R. 2652, the Collections of Information Antipiracy Act. This measure would have prohibited the misappropriation for commercial purposes of "databases" whose compilation has required the investment of substantial time and resources.

Like other digitized information, databases can be easily copied and distributed by unscrupulous competitors. Yet the people who create and maintain these compilations can do little to deter or punish this behavior, because most databases are not protected under current copyright law.

H.R. 2652 would have amended the copyright law to provide effective legal protection against database piracy. Without this protection, companies will have little incentive to continue to invest their time and money in database development, and the public will pay the price.

I hope that the subcommittee will revisit this subject early in the next Congress, and I intend to do all I can to see that this or similar legislation is enacted into law.

Mr. GOODLATTE. Madam Speaker, I rise today in support of H.R. 2281, the Digital Millennium Copyright Act. I would like to thank both Chairman COBLE and Chairman HYDE for their leadership on this issue. Additionally, I would like to thank them again for asking me to lead the negotiations between the various parties on the issue of on-line service provider liability for copyright infringement, which is included in this important bill.

The issue of liability for on-line copyright infringement, especially where it involves third parties, is difficult and complex. For me personally, this issue is not a new one: during the 104th Congress, then-Chairman Carlos Moorhead asked me to lead negotiations between

the parties. Although I held numerous meetings involving members of the content community and members of the service provider community, unfortunately we were not able to resolve this issue.

At the beginning of the 105th Congress, Chairman COBEL asked me to again lead the negotiations between the parties on this issue. After a great deal of meetings and negotiation sessions, the copyright community and the service provider community were able to successfully reach agreement. That agreement is included in the bill we are considering today. No one is happier, except maybe those in each community who spent countless hours and a great deal of effort trying to reach agreement, than I am with the agreement contained in this bill.

Madam Speaker, this is a critical issue to the development of the Internet, and I believe that both sides in this debate need each other. If America's creators do not believe that their works will be protected when they put them on-line, then the Internet will lack the creative content it needs to reach its true potential. And if America's service providers are subject to litigation for the acts of third parties at the drop of a hat, they will lack the incentive to provide quick and efficient access to the Internet. The provisions of H.R. 2281 will allow the Internet to flourish, and I believe will prove to be a win-win not only for both sides, but for consumers, manufacturers, and Internet users throughout the nation.

I would also like to discuss the importance of the World Intellectual Property Organization treaties, and this accompanying implementing legislation, which are critical to protecting U.S. copyrights overseas. The United States is the world leader in intellectual property. We export billions of dollars worth of creative works every year in the form of software, books, videotapes, and records. Our ability to create so many quality products has become a bulwark of our national economy, and it is vital that copyright protection for these products not stop at our borders. International protection of U.S. copyrights will be of tremendous benefit to our economy—but we need to ratify the WIPO treaties for this to happen, and we need to pass this legislation to ratify the treaties.

I would also like to express my understanding of the intent behind the provisions of H.R. 2281 that address certain technologies used to control copying of motion pictures in analog form on videocassette recorders, provisions that were not part of either the original House or Senate bills. That section establishes certain requirements only for analog videocassette recorders, analog videocassette camcorders, and professional analog videocassette recorders.

In other words, these requirements exist only in the "analog" world. The limitations, for instance, with respect to certain transmissions apply only with respect to those transmissions in analog form.

The intent of the conferees is that these provisions do not establish any obligations with respect to digital technologies, including computers or software. Copyright owners are free to use these or any other forms of copy control technology to protect their works in the "digital" world, including in any digital broadcasts, transmissions, or copies.

It is also my understanding that the intent of the conferees is that this provision neither establishes, nor should it be interpreted as establishing, a precedent for Congress to legislate specific standards or specific technologies to be used as technological protection measures, particularly with respect to computers and software. While it is not the intent of the conferees to prejudice or affect ongoing negotiations over digital video technology, it may become necessary in the future for Congress to consider protections for audiovisual works in the digital environment.

The conferees understand that technology develops best and most rapidly in response to marketplace forces, and believe that private parties should be free to apply their ingenuity to develop even better and more effective technologies.

Finally, regulatory agencies should not involve themselves in establishing specific standards in the digital medium, in particular for software and computers. The technology changes far too fast, much more rapidly than regulatory standards. Therefore, regulation in this area is likely to impede, or in some cases even discourage, the development of new technologies.

This bill is critical not only because it will allow the Internet to flourish, but also because it ensures that America will remain the world leader in the development of intellectual property. I urge each of my colleagues to support the conference report to H.R. 2281.

Mr. KLUG. Madam Speaker, I rise today in strong support of the conference report on H.R. 2281, and to acknowledge my appreciation of the efforts expended to create a rational, balanced bill for the 21st Century.

About two months ago, I stood on this floor and recognized that this Congress faced a difficult balancing act. One the one hand, there is concern for protecting the American creative community—those who make movies and television shows and software and books. On the other hand, in an era of exploding information, and where increasingly having information is having power, we have a heightened obligation to ensure access to that information. We should not be changing the rules of the road in the middle of the game, creating a pay per view environment in which the use of a library card always carries a fee and where the flow of information comes with a meter that rings up a charge every time the Internet is accessed.

With the support of the House Commerce Committee, under the leadership of Chairman BLILEY, Representative DINGELL, Representative TAUZIN, Representative MARKEY, and, most significantly, Representative BOUCHER, we were able to implement two changes to the bill to instill the balance envisioned by our constitutional architects and in the long tradition of the Commerce Committee. The first change ensured that information users will continue to utilize information on a "fair use" basis, notwithstanding the prohibition on circumvention. The second change allowed manufacturers of a wide array of consumer products the certainty that design decisions could be made solely on the basis of technological innovation and consumer demand, not the dictates of the legal system.

These critical provisions were regrettably not part of the Senate-passed version of the legislation and, consequently, required negotiation in conference. Although I was not a formal part of the House-Senate conference, I am pleased to support the outcome of those discussions, and to single out the dedicated efforts of Chairman BLILEY, Representative TAUZIN, Representative DINGELL, Justin Lilley, Andy Levin, and Whitney Fox to preserve the important improvements wrought by the House Commerce Committee.

The conference report reflects a number of hard compromises, three of which I would like to discuss. First, the conferees maintain the strong fair use provision the Commerce Committee crafted, for the benefit of libraries, universities, and consumers generally. Section 1201(c)(3) explicitly provides a meaningful role, in determining whether fair use rights are or are likely to be adversely affected, for the Assistant Secretary of Commerce for Communications and Information in the mandated rulemaking. I trust that the recommendations made by the Assistant Secretary, given the increasing importance that new communications devices have in information delivery, will be accorded a central, deferential role in the formal rulemaking process.

The second change the conferees insisted upon was a "no mandate" provision. This language ensures that manufacturers of future digital telecommunications, computer, and consumer electronics products will have the freedom to choose parts and components in designing new equipment. Specifically, Section 1201(c)(3) provides that nothing in the subsection requires that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computer product provide for a response to any particular technological measure, so long as the device does not otherwise violate the section. With my colleague from Virginia, Representative BOUCHER, I originally persuaded the members of the Commerce Committee to delete the "so long as" phrase of the original Senate version. Our thinking, confirmed by committee counsel, was that this language was not just circular, but created serious ambiguity and uncertainty for product manufacturers because it was not clear whether a court, judging the circumstances after the fact, would find that specific products fell within the scope of this provision and thus had to be designed to respond to protection measures. And, it is entirely possible that these protective measures may require conflicting responses by the products.

The conferees added back the language we struck, but in a context in which the "so long as" clause had some clear, understandable meaning. The language agreed to by the conferees mandates a response by specified analog devices to two known analog protection measures, thereby limiting the applicability of the "so long as" clause. In my opinion, spelling out this single, specific limitation will provide manufacturers, particularly those working on innovative digital products, the certainty they need to design their products to respond to market conditions, not the threat of lawsuits.

Both of these changes share one other important characteristic. Given the language contained in the Judiciary Committee's original bill, specifically sections 1201(a)(1), (a)(2), and (b)(1), there was great reason to believe that

one of the fundamental laws of copyright was about to be overruled. That law, known as *Sony Corporation of America* v. *Universal Studios,* 464 U.S. 417 (198), reinforced the centuries-old concept of fair use. It also validated the legitimacy of products if capable of substantial non-infringing uses. The original version of the legislation threatened this standard, imposing liability on device manufacturers if the product is of limited commercial value.

Now, I'm not a lawyer, but it seems irrational to me to change the standard without at least some modest showing that such a change is necessary. And, changing the standard, in a very real sense, threatens the very innovation and ingenuity that have been the hallmark of American products, both hardware and content-related. I'm very pleased that the conferees have meaningfully clarified that the *Sony* decision remains valid law. They have also successfully limited the interpretation of Sections 1201(a)(2) and (b)(1), the "device" provisions, to outlaw only those products having no legitimate purpose. As the conference report makes clear, these two sections now must be read to support, not stifle, staple articles of commerce, such as consumer electronics, telecommunications, and computer products used by businesses and consumers everyday, for perfectly legitimate purposes.

Finally, the conferees included specific language allowing product manufacturers to adjust their products to accommodate adverse effects caused by technological protection measures and copyright management information systems. These measures could have the effect of materially degrading authorized performances or displays of works, or causing recurring appreciably adverse effects. But, there was real fear in the manufacturing and retail communities of liability for circumvention if they took steps to mitigate the problem. I also felt particularly strong that consumers have the right to expect that the products they purchase will live up to their expectations and the retailing hype. So, the Commerce Committee faced another balancing act—preserving the value of the creative community while also affording consumers some basic protections and guarantees.

We were only able to achieve directive report language on "playability" in the committee process. Using the base established by the Commerce Committee, the conferees were able to craft explicit language exempting makers and servicers of consumer electronics, telecommunications, or computing products from liability if acting solely to mitigate playability problems. With this absolute assurance of freedom from suit under such circumstances, manufacturers should feel free to make product adjustments, and retailers, and professional services should not be burdened with the threat of litigation in repairing products for their customers.

In short, the conference report achieves the goal of implementing the WIPO treaties. But we have done so in a thoughtful, balanced manner that promotes product development and information usage, indeed the very "progress of Science and the useful arts" set forth in the Constitution. I urge my colleagues to vote for this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and agree to the conference report on the bill, H.R. 2281.

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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 134. Joint Resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. TRAFICANT. Madam Chairman, pursuant to clause 2(a)(I) of rule IX, I hereby give notice of my intention to offer a resolution which raises a question of the privileges of the House.

The form of the resolution is as follows:

In accordance with House rule IX, clause 1, expressing the sense of the House that its integrity has been impugned because the anti-dumping provisions of the Trade and Tariff Act of 1930, Subtitle B of Title VII, have not been expeditiously enforced: Now, therefore, be it

Resolved by the House of Representatives that the House of Representatives calls upon the President to:

(1) Immediately review for a period of 10 days the entry into the customs territory of the United States of hot-rolled steel products or plate steel products that are the product or manufacture of Japan, Russia, or Brazil;

(2) If, after the above-reference review period, the President finds that the governments of Japan, Russia, or Brazil are not abiding by the spirit and letter of international trade agreements with respect to dumping, the President shall immediately impose a one-year ban on imports of hot-rolled steel products and plate steel products that are the product or manufacture of Japan, Russia or Brazil;

(3) Establish a task force within the Executive Branch to closely monitor U.S. imports of steel from other countries to determine whether or not international trade agreements are being violated with respect to dumping; and,

(4) Report to the Congress by no later than January 5, 1999, on any other actions the Executive Branch has taken or intends to take to ensure that all of the trading partners of the United States abide by the spirit and letter of international trade agreements with respect to the import into the United States of steel products.

The SPEAKER pro tempore. 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 Speaker in the legislative schedule within two legislative days of its being properly noticed. The Chair will announce the Chair's designation at a later time. The Chair's determination as to whether the resolution constitutes a question of privilege will be made at the time designated by the Chair for consideration of the resolution.

EXTENDING CERTAIN EXPIRING PROVISIONS OF THE INTERNAL REVENUE CODE

Mr. ARCHER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4738) 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, as amended.

The Clerk read as follows:

H.R. 4738

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

SECTION 1. AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TABLE OF CONTENTS.—

Sec. 1. Amendment of 1986 Code; table of contents.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Tax Provisions

Sec. 101. Research credit.
Sec. 102. Work opportunity credit.
Sec. 103. Income averaging for farmers made permanent.
Sec. 104. Contributions of stock to private foundations; expanded public inspection of private foundations' annual returns.
Sec. 105. Subpart F exemption for active financing income.
Sec. 106. Disclosure of return information on income contingent student loans.

Subtitle B—Generalized System of Preferences

Sec. 111. Extension of Generalized System of Preferences.

TITLE II—OTHER PROVISIONS

Sec. 201. Depreciation study.
Sec. 202. Production flexibility contract payments.
Sec. 203. 100 percent deduction for health insurance costs of self-employed individuals.
Sec. 204. Increase in volume cap on private activity bonds.
Sec. 205. Modification of estimated tax safe harbors.
Sec. 206. Exemption for students employed by State schools, colleges, or universities.

TITLE III—REVENUE OFFSETS

Sec. 301. Treatment of certain deductible liquidating distributions of regulated investment companies and real estate investment trusts.
Sec. 302. Inclusion of rotavirus gastroenteritis as a taxable vaccine.
Sec. 303. Clarification and expansion of mathematical error assessment procedures.
Sec. 304. Clarification of definition of specified liability loss.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Definitions; coordination with other titles.
Sec. 402. Amendments related to Internal Revenue Service Restructuring and Reform Act of 1998.
Sec. 403. Amendments related to Taxpayer Relief Act of 1997.
Sec. 404. Amendments related to Tax Reform Act of 1984.
Sec. 405. Other amendments.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN EXPIRING PROVISIONS

Subtitle A—Tax Provisions

SEC. 101. RESEARCH CREDIT.

(a) TEMPORARY EXTENSION.—Paragraph (1) of section 41(h) (relating to termination) is amended—

(1) by striking "June 30, 1998" and inserting "December 31, 1999";

(2) by striking "24-month" and inserting "42-month"; and

(3) by striking "24 months" and inserting "42 months".

(b) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking "June 30, 1998" and inserting "December 31, 1999".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after June 30, 1998.

SEC. 102. WORK OPPORTUNITY CREDIT.

(a) TEMPORARY EXTENSION.—Subparagraph (B) of section 51(c)(4) (relating to termination) is amended by striking "June 30, 1998" and inserting "December 31, 1999".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals who begin work for the employer after June 30, 1998.

SEC. 103. INCOME AVERAGING FOR FARMERS MADE PERMANENT.

Subsection (c) of section 933 of the Taxpayer Relief Act of 1997 is amended by striking ", and before January 1, 2001".

SEC. 104. CONTRIBUTIONS OF STOCK TO PRIVATE FOUNDATIONS; EXPANDED PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL RETURNS.

(a) SPECIAL RULE FOR CONTRIBUTIONS OF STOCK MADE PERMANENT.—

(1) IN GENERAL.—Paragraph (5) of section 170(e) is amended by striking subparagraph (D) (relating to termination).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made after June 30, 1998.

(b) EXPANDED PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL RETURNS, ETC.—

(1) IN GENERAL.—Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by striking subsections (d) and (e) and inserting after subsection (c) the following new subsection:

"(d) PUBLIC INSPECTION OF CERTAIN ANNUAL RETURNS AND APPLICATIONS FOR EXEMPTION.—

"(1) IN GENERAL.—In the case of an organization described in subsection (c) or (d) of section 501 and exempt from taxation under section 501(a)—

"(A) a copy of—

"(i) the annual return filed under section 6033 (relating to returns by exempt organizations) by such organization; and

"(ii) if the organization filed an application for recognition of exemption under section 501, the exempt status application materials of such organization,

shall be made available by such organization for inspection during regular business hours by any individual at the principal office of such organization and, if such organization regularly maintains 1 or more regional or district offices having 3 or more employees, at each such regional or district office; and

"(B) upon request of an individual made at such principal office or such a regional or district office, a copy of such annual return and exempt status application materials shall be provided to such individual without charge other than a reasonable fee for any reproduction and mailing costs.

The request described in subparagraph (B) must be made in person or in writing. If such request is made in person, such copy shall be provided immediately and, if made in writing, shall be provided within 30 days.

"(2) 3-YEAR LIMITATION ON INSPECTION OF RETURNS.—Paragraph (1) shall apply to an annual return filed under section 6033 only during the 3-year period beginning on the last day prescribed for filing such return (determined with regard to any extension of time for filing).

"(3) EXCEPTIONS FROM DISCLOSURE REQUIREMENT.—

"(A) NONDISCLOSURE OF CONTRIBUTORS, ETC.—Paragraph (1) shall not require the disclosure of the name or address of any contributor to the organization. In the case of an organization described in section 501(d), paragraph (1) shall not require the disclosure of the copies referred to in section 6031(b) with respect to such organization.

"(B) NONDISCLOSURE OF CERTAIN OTHER INFORMATION.—Paragraph (1) shall not require the disclosure of any information if the Secretary withheld such information from public inspection under subsection (a)(1)(D).

"(4) LIMITATION ON PROVIDING COPIES.—Paragraph (1)(B) shall not apply to any request if, in accordance with regulations promulgated by the Secretary, the organization has made the requested documents widely available, or the Secretary determines, upon application by an organization, that such request is part of a harassment campaign and that compliance with such request is not in the public interest.

"(5) EXEMPT STATUS APPLICATION MATERIALS.—For purposes of paragraph (1), the term 'exempt status applicable materials' means the application for recognition of exemption under section 501 and any papers submitted in support of such application and any letter or other document issued by the Internal Revenue Service with respect to such application.".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 6033 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(B) Subparagraph (C) of section 6652(c)(1) is amended by striking "subsection (d) or (e)(1) of section 6104 (relating to public inspection of annual returns)" and inserting "section 6104(d) with respect to any annual return".

(C) Subparagraph (D) of section 6652(c)(1) is amended by striking "section 6104(e)(2) (relating to public inspection of applications for exemption)" and inserting "section 6104(d) with respect to any exempt status application materials (as defined in such section)".

(D) Section 6685 is amended by striking "or (e)".

(E) Section 7207 is amended by striking "or (e)".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to requests made after the later of December 31, 1998, or the 60th day after the Secretary of the Treasury first issues the regulations referred to in such section 6104(d)(4) of the Internal Revenue Code of 1986, as amended by this section.

(B) PUBLICATION OF ANNUAL RETURNS.—Section 6104(d) of such Code, as in effect before the amendments made by this subsection, shall not apply to any return the due date for which is after the date such amendments take effect under subparagraph (A).

SEC. 105. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) INCOME DERIVED FROM BANKING, FINANCING, OR SIMILAR BUSINESSES.—Section 954(h) (relating to income derived in the active conduct of banking, financing, or similar businesses) is amended to read as follows:

"(h) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR BUSINESSES.—

"(1) IN GENERAL.—For purposes of subsection (c)(1), foreign personal holding company income shall not include qualified banking or financing income of an eligible controlled foreign corporation.

"(2) ELIGIBLE CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible controlled foreign corporation' means a controlled foreign corporation which—

"(i) is predominantly engaged in the active conduct of a banking, financing, or similar business, and

"(ii) conducts substantial activity with respect to such business.

"(B) PREDOMINANTLY ENGAGED.—A controlled foreign corporation shall be treated as predominantly engaged in the active conduct of a banking, financing, or similar business if—

"(i) more than 70 percent of the gross income of the controlled foreign corporation is derived directly from the active and regular conduct of a lending or finance business from transactions with customers which are not related persons,

"(ii) it is engaged in the active conduct of a banking business and is an institution licensed to do business as a bank in the United States (or is any other corporation not so licensed which is specified by the Secretary in regulations), or

"(iii) it is engaged in the active conduct of a securities business and is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act (or is any other corporation not so registered which is specified by the Secretary in regulations).

"(3) QUALIFIED BANKING OR FINANCING INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified banking or financing income' means income of an eligible controlled foreign corporation which—

"(i) is derived in the active conduct of a banking, financing, or similar business by—

"(I) such eligible controlled foreign corporation, or

"(II) a qualified business unit of such eligible controlled foreign corporation,

"(ii) is derived from one or more transactions—

"(I) with customers located in a country other than the United States, and

"(II) substantially all of the activities in connection with which are conducted directly by the corporation or unit in its home country, and

"(iii) is treated as earned by such corporation or unit in its home country for purposes of such country's tax laws.

"(B) LIMITATION ON NONBANKING AND NONSECURITIES BUSINESSES.—No income of an eligible controlled foreign corporation not described in clause (ii) or (iii) of paragraph (2)(B) (or of a qualified business unit of such corporation) shall be treated as qualified banking or financing income unless more than 30 percent of such corporation's or unit's gross income is derived directly from the active and regular conduct of a lending or finance business from transactions with customers which are not related persons and which are located within such corporation's or unit's home country.

"(C) SUBSTANTIAL ACTIVITY REQUIREMENT FOR CROSS BORDER INCOME.—The term 'qualified banking or financing income' shall not include income derived from 1 or more transactions with customers located in a country other than the home country of the eligible controlled foreign corporation or a qualified business unit of such corporation unless such corporation or unit conducts substantial activity with respect to a banking, financing, or similar business in its home country.

"(D) DETERMINATIONS MADE SEPARATELY.—For purposes of this paragraph, the qualified banking or financing income of an eligible controlled foreign corporation and each qualified business unit of such corporation shall be determined separately for such corporation and each such unit by taking into account—

"(i) in the case of the eligible controlled foreign corporation, only items of income, deduction, gain, or loss and activities of such corporation not properly allocable or attributable to any qualified business unit of such corporation, and

"(ii) in the case of a qualified business unit, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such unit.

"(4) LENDING OR FINANCE BUSINESS.—For purposes of this subsection, the term 'lending or finance business' means the business of—

"(A) making loans,

"(B) purchasing or discounting accounts receivable, notes, or installment obligations,

"(C) engaging in leasing (including entering into leases and purchasing, servicing, and disposing of leases and leased assets),

"(D) issuing letters of credit or providing guarantees,

"(E) providing charge and credit card services, or

"(F) rendering services or making facilities available in connection with activities described in subparagraphs (A) through (E) carried on by—

"(i) the corporation (or qualified business unit) rendering services or making facilities available, or

"(ii) another corporation (or qualified business unit of a corporation) which is a member of the same affiliated group (as defined in section 1504, but determined without regard to section 1504(b)(3)).

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) CUSTOMER.—The term 'customer' means, with respect to any controlled foreign corporation or qualified business unit, any person which has a customer relationship with such corporation or unit and which is acting in its capacity as such.

"(B) HOME COUNTRY.—Except as provided in regulations—

"(i) CONTROLLED FOREIGN CORPORATION.—The term 'home country' means, with respect to any controlled foreign corporation, the country under the laws of which the corporation was created or organized.

"(ii) QUALIFIED BUSINESS UNIT.—The term 'home country' means, with respect to any qualified business unit, the country in which such unit maintains its principal office.

"(C) LOCATED.—The determination of where a customer is located shall be made under rules prescribed by the Secretary.

"(D) QUALIFIED BUSINESS UNIT.—The term 'qualified business unit' has the meaning given such term by section 989(a).

"(E) RELATED PERSON.—The term 'related person' has the meaning given such term by subsection (d)(3).

"(6) COORDINATION WITH EXCEPTION FOR DEALERS.—Paragraph (1) shall not apply to income described in subsection (c)(2)(C)(ii) of a dealer in securities (within the meaning of section 475) which is an eligible controlled foreign corporation described in paragraph (2)(B)(iii).

"(7) ANTI-ABUSE RULES.—For purposes of applying this subsection and subsection (c)(2)(C)(ii)—

"(A) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions one of the principal purposes of which is qualifying income or gain for the exclusion under this section, including any transaction or series of transactions a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of such exclusion through the application of this subsection,

"(B) there shall be disregarded any item of income, gain, loss, or deduction of an entity which is not engaged in regular and continuous transactions with customers which are not related persons,

"(C) there shall be disregarded any item of income, gain, loss, or deduction with respect to any transaction or series of transactions utilizing, or doing business with—

"(i) one or more entities in order to satisfy any home country requirement under this subsection, or

"(ii) a special purpose entity or arrangement, including a securitization, financing, or similar entity or arrangement,

if one of the principal purposes of such transaction or series of transactions is qualifying income or gain for the exclusion under this subsection, and

"(D) a related person, an officer, a director, or an employee with respect to any controlled foreign corporation (or qualified business unit) which would otherwise be treated as a customer of such corporation or unit with respect to any transaction shall not be so treated if a principal purpose of such transaction is to satisfy any requirement of this subsection.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, subsection (c)(1)(B)(i), subsection (c)(2)(C)(ii), and the last sentence of subsection (e)(2).

"(9) APPLICATION.—This subsection, subsection (c)(2)(C)(ii), and the last sentence of subsection (e)(2) shall apply only to the first taxable year of a foreign corporation beginning after December 31, 1998, and before January 1, 2000, and to taxable years of United States shareholders with or within which such taxable year of such foreign corporation ends.".

(b) INCOME DERIVED FROM INSURANCE BUSINESS.—

(1) INCOME ATTRIBUTABLE TO ISSUANCE OR REINSURANCE.—

(A) IN GENERAL.—Section 953(a) (defining insurance income) is amended to read as follows:

"(a) INSURANCE INCOME.—

"(1) IN GENERAL.—For purposes of section 952(a)(1), the term 'insurance income' means any income which—

"(A) is attributable to the issuing (or reinsuring) of an insurance or annuity contract, and

"(B) would (subject to the modifications provided by subsection (b)) be taxed under subchapter L of this chapter if such income were the income of a domestic insurance company.

"(2) EXCEPTION.—Such term shall not include any exempt insurance income (as defined in subsection (e)).".

(B) EXEMPT INSURANCE INCOME.—Section 953 (relating to insurance income) is amended by adding at the end the following new subsection:

"(e) EXEMPT INSURANCE INCOME.—For purposes of this section—

"(1) EXEMPT INSURANCE INCOME DEFINED.—

"(A) IN GENERAL.—The term 'exempt insurance income' means income derived by a qualifying insurance company which—

"(i) is attributable to the issuing (or reinsuring) of an exempt contract by such company or a qualifying insurance company branch of such company, and

"(ii) is treated as earned by such company or branch in its home country for purposes of such country's tax laws.

"(B) EXCEPTION FOR CERTAIN ARRANGEMENTS.—Such term shall not include income attributable to the issuing (or reinsuring) of an exempt contract as the result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect of issuing (or reinsuring) a contract which is not an exempt contract.

"(C) DETERMINATIONS MADE SEPARATELY.—For purposes of this subsection and section 954(i), the exempt insurance income and exempt contracts of a qualifying insurance company or any qualifying insurance company branch of such company shall be determined separately for such company and each such branch by taking into account—

"(i) in the case of the qualifying insurance company, only items of income, deduction, gain, or loss, and activities of such company not properly allocable or attributable to any qualifying insurance company branch of such company, and

"(ii) in the case of a qualifying insurance company branch, only items of income, deduction, gain, or loss and activities properly allocable or attributable to such branch.

"(2) EXEMPT CONTRACT.—

"(A) IN GENERAL.—The term 'exempt contract' means an insurance or annuity contract issued or reinsured by a qualifying insurance company or qualifying insurance company branch in connection with property in, liability arising out of activity in, or the lives or health of residents of, a country other than the United States.

"(B) MINIMUM HOME COUNTRY INCOME REQUIRED.—

"(i) IN GENERAL.—No contract of a qualifying insurance company or of a qualifying

insurance company branch shall be treated as an exempt contract unless such company or branch derives more than 30 percent of its net written premiums from exempt contracts (determined without regard to this subparagraph)—

"(I) which cover applicable home country risks, and

"(II) with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(d)(3)).

"(ii) APPLICABLE HOME COUNTRY RISKS.—The term 'applicable home country risks' means risks in connection with property in, liability arising out of activity in, or the lives or health of residents of, the home country of the qualifying insurance company or qualifying insurance company branch, as the case may be, issuing or reinsuring the contract covering the risks.

"(C) SUBSTANTIAL ACTIVITY REQUIREMENTS FOR CROSS BORDER RISKS.—A contract issued by a qualifying insurance company or qualifying insurance company branch which covers risks other than applicable home country risks (as defined in subparagraph (B)(ii)) shall not be treated as an exempt contract unless such company or branch, as the case may be—

"(i) conducts substantial activity with respect to an insurance business in its home country, and

"(ii) performs in its home country substantially all of the activities necessary to give rise to the income generated by such contract.

"(3) QUALIFYING INSURANCE COMPANY.—The term 'qualifying insurance company' means any controlled foreign corporation which—

"(A) is subject to regulation as an insurance (or reinsurance) company by its home country, and is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(d)(3)) in such home country,

"(B) derives more than 50 percent of its aggregate net written premiums from the issuance or reinsurance by such controlled foreign corporation and each of its qualifying insurance company branches of contracts—

"(i) covering applicable home country risks (as defined in paragraph (2)) of such corporation or branch, as the case may be, and

"(ii) with respect to which no policyholder, insured, annuitant, or beneficiary is a related person (as defined in section 954(d)(3)),

except that in the case of a branch, such premiums shall only be taken into account to the extent such premiums are treated as earned by such branch in its home country for purposes of such country's tax laws, and

"(C) is engaged in the insurance business and would be subject to tax under subchapter L if it were a domestic corporation.

"(4) QUALIFYING INSURANCE COMPANY BRANCH.—The term 'qualifying insurance company branch' means a qualified business unit (within the meaning of section 989(a)) of a controlled foreign corporation if—

"(A) such unit is licensed, authorized, or regulated by the applicable insurance regulatory body for its home country to sell insurance, reinsurance, or annuity contracts to persons other than related persons (within the meaning of section 954(d)(3)) in such home country, and

"(B) such controlled foreign corporation is a qualifying insurance company, determined under paragraph (3) as if such unit were a qualifying insurance company branch.

"(5) LIFE INSURANCE OR ANNUITY CONTRACT.—For purposes of this section and section 954, the determination of whether a contract issued by a controlled foreign corporation or a qualified business unit (within the meaning of section 989(a)) is a life insurance contract or an annuity contract shall be made without regard to sections 72(s), 101(f), 817(h), and 7702 if—

"(A) such contract is regulated as a life insurance or annuity contract by the corporation's or unit's home country, and

"(B) no policyholder, insured, annuitant, or beneficiary with respect to the contract is a United States person.

"(6) HOME COUNTRY.—For purposes of this subsection, except as provided in regulations—

"(A) CONTROLLED FOREIGN CORPORATION.—The term 'home country' means, with respect to a controlled foreign corporation, the country in which such corporation is created or organized.

"(B) QUALIFIED BUSINESS UNIT.—The term 'home country' means, with respect to a qualified business unit (as defined in section 989(a)), the country in which the principal office of such unit is located and in which such unit is licensed, authorized, or regulated by the applicable insurance regulatory body to sell insurance, reinsurance, or annuity contracts to persons other than related persons (as defined in section 954(d)(3)) in such country.

"(7) ANTI-ABUSE RULES.—For purposes of applying this subsection and section 954(i)—

"(A) the rules of section 954(h)(7) (other than subparagraph (B) thereof) shall apply,

"(B) there shall be disregarded any item of income, gain, loss, or deduction of, or derived from, an entity which is not engaged in regular and continuous transactions with persons which are not related persons,

"(C) there shall be disregarded any change in the method of computing reserves a principal purpose of which is the acceleration or deferral of any item in order to claim the benefits of this subsection or section 954(i),

"(D) a contract of insurance or reinsurance shall not be treated as an exempt contract (and premiums from such contract shall not be taken into account for purposes of paragraph (2)(B) or (3)) if—

"(i) any policyholder, insured, annuitant, or beneficiary is a resident of the United States and such contract was marketed to such resident and was written to cover a risk outside the United States, or

"(ii) the contract covers risks located within and without the United States and the qualifying insurance company or qualifying insurance company branch does not maintain such contemporaneous records, and file such reports, with respect to such contract as the Secretary may require,

"(E) the Secretary may prescribe rules for the allocation of contracts (and income from contracts) among 2 or more qualifying insurance company branches of a qualifying insurance company in order to clearly reflect the income of such branches, and

"(F) premiums from a contract shall not be taken into account for purposes of paragraph (2)(B) or (3) if such contract reinsures a contract issued or reinsured by a related person (as defined in section 954(d)(3)).

For purposes of subparagraph (D), the determination of where risks are located shall be made under the principles of section 953.

"(8) COORDINATION WITH SUBSECTION (c).—In determining insurance income for purposes of subsection (c), exempt insurance income shall not include income derived from exempt contracts which cover risks other than applicable home country risks.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and section 954(i).

"(10) APPLICATION.—This subsection and section 954(i) shall apply only to the first taxable year of a foreign corporation beginning after December 31, 1998, and before January 1, 2000, and to taxable years of United States shareholders with or within which such taxable year of such foreign corporation ends.

"(11) CROSS REFERENCE.—

"For income exempt from foreign personal holding company income, see section 954(i).".

(2) EXEMPTION FROM FOREIGN PERSONAL HOLDING COMPANY INCOME.—Section 954 (defining foreign base company income) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF INSURANCE BUSINESS.—

"(1) IN GENERAL.—For purposes of subsection (c)(1), foreign personal holding company income shall not include qualified insurance income of a qualifying insurance company.

"(2) QUALIFIED INSURANCE INCOME.—The term 'qualified insurance income' means income of a qualifying insurance company which is—

"(A) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from the investments made by a qualifying insurance company or a qualifying insurance company branch of its reserves allocable to exempt contracts or of 80 percent of its unearned premiums from exempt contracts (as both are determined in the manner prescribed under paragraph (4)), or

"(B) received from a person other than a related person (within the meaning of subsection (d)(3)) and derived from investments made by a qualifying insurance company or a qualifying insurance company branch of an amount of its assets allocable to exempt contracts equal to—

"(i) in the case of property, casualty, or health insurance contracts, one-third of its premiums earned on such insurance contracts during the taxable year (as defined in section 832(b)(4)), and

"(ii) in the case of life insurance or annuity contracts, 10 percent of the reserves described in subparagraph (A) for such contracts.

"(3) PRINCIPLES FOR DETERMINING INSURANCE INCOME.—Except as provided by the Secretary, for purposes of subparagraphs (A) and (B) of paragraph (2)—

"(A) in the case of any contract which is a separate account-type contract (including any variable contract not meeting the requirements of section 817), income credited under such contract shall be allocable only to such contract, and

"(B) income not allocable under subparagraph (A) shall be allocated ratably among contracts not described in subparagraph (A).

"(4) METHODS FOR DETERMINING UNEARNED PREMIUMS AND RESERVES.—For purposes of paragraph (2)(A)—

"(A) PROPERTY AND CASUALTY CONTRACTS.—The unearned premiums and reserves of a qualifying insurance company or a qualifying insurance company branch with respect to property, casualty, or health insurance contracts shall be determined using the same methods and interest rates which

would be used if such company or branch were subject to tax under subchapter L, except that—

"(i) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate, and

"(ii) such company or branch shall use the appropriate foreign loss payment pattern.

"(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—The amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

"(i) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

"(ii) the reserve determined under paragraph (5).

"(C) LIMITATION ON RESERVES.—In no event shall the reserve determined under this paragraph for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining foreign statement reserves (less any catastrophe, deficiency, equalization, or similar reserves).

"(5) AMOUNT OF RESERVE.—The amount of the reserve determined under this paragraph with respect to any contract shall be determined in the same manner as it would be determined if the qualifying insurance company or qualifying insurance company branch were subject to tax under subchapter L, except that in applying such subchapter—

"(A) the interest rate determined for the functional currency of the company or branch, and which, except as provided by the Secretary, is calculated in the same manner as the Federal mid-term rate under section 1274(d), shall be substituted for the applicable Federal interest rate,

"(B) the highest assumed interest rate permitted to be used in determining foreign statement reserves shall be substituted for the prevailing State assumed interest rate, and

"(C) tables for mortality and morbidity which reasonably reflect the current mortality and morbidity risks in the company's or branch's home country shall be substituted for the mortality and morbidity tables otherwise used for such subchapter.

The Secretary may provide that the interest rate and mortality and morbidity tables of a qualifying insurance company may be used for 1 or more of its qualifying insurance company branches when appropriate.

"(6) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 953(e) shall have the meaning given such term by section 953.".

(3) RESERVES.—Section 953(b) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Reserves for any insurance or annuity contract shall be determined in the same manner as under section 954(i).".

(c) SPECIAL RULES FOR DEALERS.—Section 954(c)(2)(C) is amended to read as follows:

"(C) EXCEPTION FOR DEALERS.—Except as provided by regulations, in the case of a regular dealer in property which is property described in paragraph (1)(B), forward contracts, option contracts, or similar financial instruments (including notional principal contracts and all instruments referenced to commodities), there shall not be taken into account in computing foreign personal holding company income—

"(i) any item of income, gain, deduction, or loss (other than any item described in subparagraph (A), (E), or (G) of paragraph (1)) from any transaction (including hedging transactions) entered into in the ordinary course of such dealer's trade or business as such a dealer, and

"(ii) if such dealer is a dealer in securities (within the meaning of section 475), any interest or dividend or equivalent amount described in subparagraph (E) or (G) of paragraph (1) from any transaction (including any hedging transaction or transaction described in section 956(c)(2)(J)) entered into in the ordinary course of such dealer's trade or business as such a dealer in securities, but only if the income from the transaction is attributable to activities of the dealer in the country under the laws of which the dealer is created or organized (or in the case of a qualified business unit described in section 989(a), is attributable to activities of the unit in the country in which the unit both maintains its principal office and conducts substantial business activity).".

(d) EXEMPTION FROM FOREIGN BASE COMPANY SERVICES INCOME.—Paragraph (2) of section 954(e) is amended by inserting "or" at the end of subparagraph (A), by striking ", or" at the end of subparagraph (B) and inserting a period, by striking subparagraph (C), and by adding at the end the following new flush sentence:

"Paragraph (1) shall also not apply to income which is exempt insurance income (as defined in section 953(e)) or which is not treated as foreign personal holding income by reason of subsection (c)(2)(C)(ii), (h), or (i).".

(e) EXEMPTION FOR GAIN.—Section 954(c)(1)(B)(i) (relating to net gains from certain property transactions) is amended by inserting "other than property which gives rise to income not treated as foreign personal holding company income by reason of subsection (h) or (i) for the taxable year" before the comma at the end.

SEC. 106. DISCLOSURE OF RETURN INFORMATION ON INCOME CONTINGENT STUDENT LOANS.

Subparagraph (D) of section 6103(l)(13) (relating to disclosure of return information to carry out income contingent repayment of student loans) is amended by striking "September 30, 1998" and inserting "September 30, 2003".

Subtitle B—Generalized System of Preferences

SEC. 111. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

(a) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—Section 505 of the Trade Act of 1974 (29 U.S.C. 2465) is amended by striking "June 30, 1998" and inserting "December 31, 1999".

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), any entry—

(A) of an article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if such title had been in effect during the period beginning on July 1, 1998, and ending on the day before the date of the enactment of this Act; and

(B) that was made after June 30, 1998, and before the date of the enactment of this Act, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this subsection, the term "entry" includes a withdrawal from warehouse for consumption.

(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

TITLE II—OTHER PROVISIONS

SEC. 201. DEPRECIATION STUDY.

The Secretary of the Treasury (or the Secretary's delegate)—

(1) shall conduct a comprehensive study of the recovery periods and depreciation methods under section 168 of the Internal Revenue Code of 1986, and

(2) not later than March 31, 2000, shall submit the results of such study, together with recommendations for determining such periods and methods in a more rational manner, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 202. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

(a) IN GENERAL.—The options under paragraphs (2) and (3) of section 112(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7212(d) (2) and (3)), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which any payment under a production flexibility contract under subtitle B of title I of such Act (as so in effect) is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after December 31, 1995.

SEC. 203. 100 PERCENT DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—The table contained in subparagraph (B) of section 162(l)(1) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking the last 3 items and inserting the following new item:

"2003 and thereafter ..... 100."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 204. INCREASE IN VOLUME CAP ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Subsection (d) of section 146 (relating to volume cap) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) an amount equal to the per capita limit for such year multiplied by the State population, or

"(B) the aggregate limit for such year.

Subparagraph (B) shall not apply to any possession of the United States.

"(2) PER CAPITA LIMIT; AGGREGATE LIMIT.—For purposes of paragraph (1), the per capita limit, and the aggregate limit, for any calendar year shall be determined in accordance with the following table:

Calendar Year	Per Capita Limit	Aggregate Limit
1999 through 2002	$50	$150,000,000
2003	55	165,000,000

Calendar Year	Per Capita Limit	Aggregate Limit
2004	60	180,000,000
2005	65	195,000,000
2006	70	210,000,000
2007 and thereafter	75	225,000,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1998.

SEC. 205. MODIFICATION OF ESTIMATED TAX SAFE HARBORS.

(a) IN GENERAL.—The table contained in clause (i) of section 6654(d)(1)(C) (relating to limitation on use of preceding year's tax) is amended by striking the item relating to 1998, 1999, or 2000 and inserting the following new items:

"1998	105
1999 or 2000	106".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

SEC. 206. EXEMPTION FOR STUDENTS EMPLOYED BY STATE SCHOOLS, COLLEGES, OR UNIVERSITIES.

(a) IN GENERAL.—Notwithstanding section 218 of the Social Security Act, any agreement with a State (or any modification thereof) entered into pursuant to such section may, at the option of such State, be modified at any time on or after January 1, 1999, and on or before March 31, 1999, so as to exclude service performed in the employ of a school, college, or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university.

(b) EFFECTIVE DATE OF MODIFICATION.—Any modification of an agreement pursuant to subsection (a) shall be effective with respect to services performed after June 30, 2000.

(c) IRREVOCABILITY OF MODIFICATION.—If any modification of an agreement pursuant to subsection (a) terminates coverage with respect to service performed in the employ of a school, college, or university, by a student who is enrolled and regularly attending classes at such school, college, or university, the Commissioner of Social Security and the State may not thereafter modify such agreement so as to again make the agreement applicable to such service performed in the employ of such school, college, or university.

TITLE III—REVENUE OFFSETS

SEC. 301. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Section 332 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

"(c) DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.".

(b) CONFORMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 332(b) is amended by striking "subsection (a)" and inserting "this section".

(2) Paragraph (1) of section 334(b) is amended by striking "section 332(a)" and inserting "section 332".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after May 21, 1998.

(d) ASSUMPTIONS.—In making the estimate required for this Act by section 252(d)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, that part of the estimate that measures the change in receipts resulting from the amendments made by this section shall be based on up-to-date economic and technical assumptions notwithstanding section 252(d)(2)(B) of such Act. All other parts of such estimate required by such section 252(d)(2) shall be made pursuant to the requirements of such section 252(d)(2)(B).

SEC. 302. INCLUSION OF ROTAVIRUS GASTROENTERITIS AS A TAXABLE VACCINE.

(a) IN GENERAL.—Paragraph (1) of section 4132 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

"(K) Any vaccine against rotavirus gastroenteritis.".

(b) EFFECTIVE DATE.—

(1) SALES.—The amendment made by this section shall apply to sales after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1), in the case of sales on or before the date of the enactment of this Act for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 303. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Paragraph (2) of section 6213(g) (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN.".

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Paragraph (2) of section 6213(g) is amended by striking "and" at the end of subparagraph (J), by striking the period at the end of the subparagraph (K) and inserting ", and", and by inserting after subparagraph (K) the following new subparagraph:

"(L) the inclusion on a return of a TIN required to be included on the return under section 21, 24, or 32 if—

"(i) such TIN is of an individual whose age affects the amount of the credit under such section; and

"(ii) the computation of the credit on the return reflects the treatment of such individual as being of an age different from the individual's age based on such TIN.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 304. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

"(B)(i) Any amount allowable as a deduction under this chapter (other than section 468(a)(1) or 468A(a)) which is in satisfaction of a liability under a Federal or State law requiring—

"(I) the reclamation of land;

"(II) the decommissioning of a nuclear power plant (or any unit thereof);

"(III) the dismantlement of a drilling platform;

"(IV) the remediation of environmental contamination; or

"(V) a payment under any workers compensation act (within the meaning of section 461(h)(2)(C)(i)).

"(ii) A liability shall be taken into account under this subparagraph only if—

"(I) the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year; and

"(II) the taxpayer used an accrual method of accounting throughout the period or periods during which such act (or failure to act) occurred.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years ending after the date of the enactment of this Act.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS; COORDINATION WITH OTHER TITLES.

(a) DEFINITIONS.—For purposes of this title—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) 1998 ACT.—The term "1998 Act" means the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206).

(3) 1997 ACT.—The term "1997 Act" means the Taxpayer Relief Act of 1997 (Public Law 105–34).

(b) COORDINATION WITH OTHER TITLES.—For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

SEC. 402. AMENDMENTS RELATED TO INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998.

(a) AMENDMENT RELATED TO SECTION 1101 OF 1998 ACT.—Paragraph (5) of section 6103(h) of the 1986 Code, as added by section 1101(b) of the 1998 Act, is redesignated as paragraph (6).

(b) AMENDMENT RELATED TO SECTION 3001 OF 1998 ACT.—Paragraph (2) of section 7491(a) of the 1986 Code is amended by adding at the end the following flush sentence:

"Subparagraph (C) shall not apply to any qualified revocable trust (as defined in section 645(b)(1)) with respect to liability for tax for any taxable year ending after the date of the decedent's death and before the applicable date (as defined in section 645(b)(2)).".

(c) AMENDMENTS RELATED TO SECTION 3201 OF 1998 ACT.—

(1) Section 7421(a) of the 1986 Code is amended by striking "6015(d)" and inserting "6015(e)".

(2) Subparagraph (A) of section 6015(e)(3) is amended by striking "of this section" and inserting "of subsection (b) or (f)".

(d) AMENDMENT RELATED TO SECTION 3301 OF 1998 ACT.—Paragraph (2) of section 3301(c) of the 1998 Act is amended by striking "The amendments" and inserting "Subject to any applicable statute of limitation not having expired with regard to either a tax underpayment or a tax overpayment, the amendments".

(e) AMENDMENT RELATED TO SECTION 3401 OF 1998 ACT.—Section 3401(c) of the 1998 Act is amended—

(1) in paragraph (1), by striking "7443(b)" and inserting "7443A(b)"; and

(2) in paragraph (2), by striking "7443(c)" and inserting "7443A(c)".

(f) AMENDMENT RELATED TO SECTION 3433 OF 1998 ACT.—Section 7421(a) of the 1986 Code is

amended by inserting "6331(i)," after "6246(b),".

(g) AMENDMENT RELATED TO SECTION 3467 OF 1998 ACT.—The subsection (d) of section 6159 of the 1986 Code relating to cross reference is redesignated as subsection (e).

(h) AMENDMENT RELATED TO SECTION 3708 OF 1998 ACT.—Subparagraph (A) of section 6103(p)(3) of the 1986 Code is amended by inserting "(f)(5)," after "(c), (e),".

(i) AMENDMENTS RELATED TO SECTION 5001 OF 1998 ACT.—

(1) Subparagraph (B) of section 1(h)(13) of the 1986 Code is amended by striking "paragraph (7)(A)" and inserting "paragraph (7)(A)(i)".

(2)(A) Subparagraphs (A)(i)(II), (A)(ii)(II), and (B)(ii) of section 1(h)(13) of the 1986 Code shall not apply to any distribution after December 31, 1997, by a regulated investment company or a real estate investment trust with respect to—

(i) gains and losses recognized directly by such company or trust, and

(ii) amounts properly taken into account by such company or trust by reason of holding (directly or indirectly) an interest in another such company or trust to the extent that such subparagraphs did not apply to such other company or trust with respect to such amounts.

(B) Subparagraph (A) shall not apply to any distribution which is treated under section 852(b)(7) or 857(b)(8) of the 1986 Code as received on December 31, 1997.

(C) For purposes of subparagraph (A), any amount which is includible in gross income of its shareholders under section 852(b)(3)(D) or 857(b)(3)(D) of the 1986 Code after December 31, 1997, shall be treated as distributed after such date.

(D)(i) For purposes of subparagraph (A), in the case of a qualified partnership with respect to which a regulated investment company meets the holding requirement of clause (iii)—

(I) the subparagraphs referred to in subparagraph (A) shall not apply to gains and losses recognized directly by such partnership for purposes of determining such company's distributive share of such gains and losses, and

(II) such company's distributive share of such gains and losses (as so determined) shall be treated as recognized directly by such company.

The preceding sentence shall apply only if the qualified partnership provides the company with written documentation of such distributive share as so determined.

(ii) For purposes of clause (i), the term "qualified partnership" means, with respect to a regulated investment company, any partnership if—

(I) the partnership is an investment company registered under the Investment Company Act of 1940,

(II) the regulated investment company is permitted to invest in such partnership by reason of section 12(d)(1)(E) of such Act or an exemptive order of the Securities and Exchange Commission under such section, and

(III) the regulated investment company and the partnership have the same taxable year.

(iii) A regulated investment company meets the holding requirement of this clause with respect to a qualified partnership if (as of January 1, 1998)—

(I) the value of the interests of the regulated investment company in such partnership is 35 percent or more of the value of such company's total assets, or

(II) the value of the interests of the regulated investment company in such partnership and all other qualified partnerships is 90 percent or more of the value of such company's total assets.

(3) Paragraph (13) of section 1(h) of the 1986 Code is amended by adding at the end the following new subparagraph:

"(D) CHARITABLE REMAINDER TRUSTS.—Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664."

(j) AMENDMENT RELATED TO SECTION 7004 OF 1998 ACT.—Clause (i) of section 408A(c)(3)(C) of the 1986 Code, as amended by section 7004 of the 1998 Act, is amended by striking the period at the end of subclause (II) and inserting ", and".

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1998 Act to which they relate.

SEC. 403. AMENDMENTS RELATED TO TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 202 OF 1997 ACT.—

(1) Paragraph (2) of section 163(h) of the 1986 Code is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following new subparagraph:

"(F) any interest allowable as a deduction under section 221 (relating to interest on educational loans)."

(2)(A) Subparagraph (C) of section 221(b)(2) of the 1986 Code is amended—

(i) by striking "135, 137," in clause (i),

(ii) by inserting "135, 137," after "sections 86," in clause (ii), and

(iii) by striking the last sentence.

(B) Sections 86(b)(2)(A), 135(c)(4)(A), and 219(g)(3)(A)(ii) of the 1986 Code are each amended by inserting "221," after "137,".

(C) Subparagraph (A) of section 137(b)(3) of the 1986 Code is amended by inserting "221," before "911,".

(D) Clause (iii) of section 469(i)(3)(E) of the 1986 Code is amended to read as follows:

"(iii) the amounts allowable as a deduction under sections 219 and 221, and".

(3) The last sentence of section 221(e)(1) of the 1986 Code is amended by inserting before the period "or to any person by reason of a loan under any qualified employer plan (as defined in section 72(p)(4)) or under any contract referred to in section 72(p)(5)".

(b) PROVISION RELATED TO SECTION 311 OF 1997 ACT.—In the case of any capital gain distribution made after 1997 by a trust to which section 664 of the 1986 Code applies with respect to amounts properly taken into account by such trust during 1997, paragraphs (5)(A)(i)(I), (5)(A)(ii)(I), and (13)(A) of section 1(h) of the 1986 Code (as in effect for taxable years ending on December 31, 1997) shall not apply.

(c) AMENDMENT RELATED TO SECTION 506 OF 1997 ACT.—Section 2001(f)(2) of the 1986 Code is amended by adding at the end the following:

"For purposes of subparagraph (A), the value of an item shall be treated as shown on a return if the item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item.".

(d) AMENDMENTS RELATED TO SECTION 904 OF 1997 ACT.—

(1) Paragraph (1) of section 9510(c) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Amounts in the Vaccine Injury Compensation Trust Fund shall be available, as provided in appropriation Acts, only for—

"(A) the payment of compensation under subtitle 2 of title XXI of the Public Health Service Act (as in effect on August 5, 1997) for vaccine-related injury or death with respect to any vaccine—

"(i) which is administered after September 30, 1988, and

"(ii) which is a taxable vaccine (as defined in section 4132(a)(1)) at the time compensation is paid under such subtitle 2, or

"(B) the payment of all expenses of administration (but not in excess of $9,500,000 for any fiscal year) incurred by the Federal Government in administering such subtitle.".

(2) Section 9510(b) of the 1986 Code is amended by adding at the end the following new paragraph:

"(3) LIMITATION ON TRANSFERS TO VACCINE INJURY COMPENSATION TRUST FUND.—No amount may be appropriated to the Vaccine Injury Compensation Trust Fund on and after the date of any expenditure from the Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.".

(e) AMENDMENTS RELATED TO SECTION 915 OF 1997 ACT.—

(1) Section 915 of the 1997 Act is amended—

(A) in subsection (b), by inserting "or 1998" after "1997", and

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

"(d) EFFECTIVE DATE.—This section shall apply to taxable years ending with or within calendar year 1997.".

(2) Paragraph (2) of section 6404(h) of the 1986 Code is amended by inserting "Robert T. Stafford" before "Disaster".

(f) AMENDMENTS RELATED TO SECTION 1012 OF 1997 ACT.—

(1) Paragraph (2) of section 351(c) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting ", or the fact that the corporation whose stock was distributed issues additional stock," after "dispose of part or all of the distributed stock".

(2) Clause (ii) of section 368(a)(2)(H) of the 1986 Code, as amended by section 6010(c) of the 1998 Act, is amended by inserting ", or the fact that the corporation whose stock was distributed issues additional stock," after "dispose of part or all of the distributed stock".

(g) PROVISION RELATED TO SECTION 1042 OF 1997 ACT.—Rules similar to the rules of section 1.1502-75(d)(5) of the Treasury Regulations shall apply with respect to any organization described in section 1042(b) of the 1997 Act.

(h) AMENDMENT RELATED TO SECTION 1082 OF 1997 ACT.—Subparagraph (F) of section 172(b)(1) of the 1986 Code is amended by adding at the end the following new clause:

"(iv) COORDINATION WITH PARAGRAPH (2).—For purposes of applying paragraph (2), an eligible loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated."

(i) AMENDMENT RELATED TO SECTION 1084 OF 1997 ACT.—Paragraph (3) of section 264(f) of the 1986 Code is amended by adding at the end the following flush sentence:

"If the amount described in subparagraph (A) with respect to any policy or contract does not reasonably approximate its actual value, the amount taken into account under subparagraph (A) shall be the greater of the

amount of the insurance company liability or the insurance company reserve with respect to such policy or contract (as determined for purposes of the annual statement approved by the National Association of Insurance Commissioners) or shall be such other amount as is determined by the Secretary."

(j) AMENDMENT RELATED TO SECTION 1175 OF 1997 ACT.—Subparagraph (C) of section 954(e)(2) of the 1986 Code is amended by striking "subsection (h)(8)" and inserting "subsection (h)(9)".

(k) AMENDMENT RELATED TO SECTION 1205 OF 1997 ACT.—Paragraph (2) of section 6311(d) of the 1986 Code is amended by striking "under such contracts" in the last sentence and inserting "under any such contract for the use of credit, debit, or charge cards for the payment of taxes imposed by subtitle A".

(l) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the 1997 Act to which they relate.

SEC. 404. AMENDMENTS RELATED TO TAX REFORM ACT OF 1984.

(a) IN GENERAL.—Subparagraph (C) of section 172(d)(4) of the 1986 Code is amended to read as follows:

"(C) any deduction for casualty or theft losses allowable under paragraph (2) or (3) of section 165(c) shall be treated as attributable to the trade or business; and".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 67(b) of the 1986 Code is amended by striking "for losses described in subsection (c)(3) or (d) of section 165" and inserting "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)".

(2) Paragraph (3) of section 68(c) of the 1986 Code is amended by striking "for losses described in subsection (c)(3) or (d) of section 165" and inserting "for casualty or theft losses described in paragraph (2) or (3) of section 165(c) or for losses described in section 165(d)".

(3) Paragraph (1) of section 873(b) is amended to read as follows:

"(1) LOSSES.—The deduction allowed by section 165 for casualty or theft losses described in paragraph (2) or (3) of section 165(c), but only if the loss is of property located within the United States."

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1983.

(2) The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1986.

(3) The amendment made by subsection (b)(2) shall apply to taxable years beginning after December 31, 1990.

SEC. 405. OTHER AMENDMENTS.

(a) AMENDMENTS RELATED TO SECTION 6103 OF 1986 CODE.—

(1) Subsection (j) of section 6103 of the 1986 Code is amended by adding at the end the following new paragraph:

"(5) DEPARTMENT OF AGRICULTURE.—Upon request in writing by the Secretary of Agriculture, the Secretary shall furnish such returns, or return information reflected thereon, as the Secretary may prescribe by regulation to officers and employees of the Department of Agriculture whose official duties require access to such returns or information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the census of agriculture pursuant to the Census of Agriculture Act of 1997 (Public Law 105-113).".

(2) Paragraph (4) of section 6103(p) of the 1986 Code is amended by striking "(j)(1) or (2)" in the material preceding subparagraph (A) and in subparagraph (F) and inserting "(j)(1), (2), or (5)".

(3) The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act.

(b) AMENDMENT RELATED TO SECTION 9004 OF TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—

(1) Paragraph (2) of section 9503(f) of the 1986 Code is amended to read as follows:

"(2) notwithstanding section 9602(b), obligations held by such Fund after September 30, 1998, shall be obligations of the United States which are not interest-bearing."

(2) The amendment made by paragraph (1) shall take effect on October 1, 1998.

(c) AMENDMENT RELATED TO TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999.—

(1) The Treasury and General Government Appropriations Act, 1999 is amended by striking section 804 (relating to technical and clarifying amendments relating to judicial retirement program).

(2) The amendment made by paragraph (1) shall take effect as if such section 804 had never been enacted.

(d) CLERICAL AMENDMENTS.—

(1) Clause (i) of section 51(d)(6)(B) of the 1986 Code is amended by striking "rehabilitation plan" and inserting "plan for employment". The reference to "plan for employment" in such clause shall be treated as including a reference to the rehabilitation plan referred to in such clause as in effect before the amendment made by the preceding sentence.

(2) Paragraph (3) of section 56(a) of the 1986 Code is amended by striking "section 460(b)(2)" and inserting "section 460(b)(1)" and by striking "section 460(b)(4)" and inserting "section 460(b)(3)".

(3) Paragraph (10) of section 2031(c) of the 1986 Code is amended by striking "section 2033A(e)(3)" and inserting "section 2057(e)(3)".

(4) Subparagraphs (C) and (D) of section 6693(a)(2) of the 1986 Code are each amended by striking "Section" and inserting "section".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4738, as amended.

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

There was no objection.

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

Madam Speaker, the plan before us today does three principal things: It extends a series of tax relief provisions to help businesses create jobs; it helps people coming off of welfare as well as other hard to place workers to get jobs; and it includes three provisions to help farmers and ranchers who have been hard hit by tough times.

This plan gives farmers and other small business owners 100 percent deduction for their health insurance costs in the year 2003, four years earlier than current law.

I am particularly pleased about two other agricultural provisions. The bill lets farmers benefit from permanent income averaging, and the other provision protects family farmers from having to pay tax on farm program payments that have not actually been received in the year.

Due to the importance of this noncontroversial bill, I hope and expect that it will be passed in the Senate so it can be signed into law.

I thank the Members who suggested ideas that are included in the plan, and I thank the minority for their cooperation in expediting consideration of the bill on the floor today.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of the bill before us today. It should have been before this House a long time ago. Provisions such as the research tax credit and work opportunity tax credit should have been extended. A lot of people have depended on it.

We Democrats have agreed not to offer any amendments because we believe to do so would have delayed the enactment of this very important legislation.

However, in other circumstances there would have been several amendments that we would have proposed. On October 1st of this year, the temporary increase in the rum carry-over provision expired. Failure to extend that temporary increase will have adverse consequences to Puerto Rico and the Virgin Islands. I am very disappointed that we are not able to extend that temporary increase in this bill.

Extensions of my qualified zone academy zone program would have been a big step in addressing the large need of school construction and modernization. The provision previously adopted by the House that liberalized the arbitrage rules for school construction bond would do little to meet school construction needs.

I am also disappointed that the bill does not extend the welfare to work credit. It expires at the end of April of next year, and realistically there is little prospect for enacting a timely extension next year.

There is also broad bipartisan support on this committee for an increase in the low income housing tax credit program. There is no reason why we should not have been able to do that in the context of this legislation. Next year American families with children will be faced with extraordinary complex rules when claiming the child

credit enacted last year. There is no justification for the complexity of those rules and this committee should have adopted the legislation of the gentleman from Massachusetts (Mr. NEAL) that would waive in tax year 1998 the minimum tax limitation on the child credit.

I do not understand why reauthorization of the trade adjustment assistance program for workers and firms which terminated on September 3 was not included in this package.

The Senate has a different version of this legislation, and I think the other body's version is far superior to what we have to today, but in particular I support the extension of trade adjustment assistance and the minimum tax waiver contained in the other body's version. I am hopeful that disagreements over the detail of this legislation will not endanger its enactment.

Madam Speaker, I reserve the balance of my time.

Mr. ARCHER. Madam Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Madam Speaker, I rise in support of this tax bill.

Madam Speaker, I commend Chairman ARCHER on the inclusion in this bill of the provision to modify and extend the present law treatment of active financial services income under Subpart F of the Internal Revenue Code. The provision permits U.S.-based finance companies, insurance companies banks, securities dealers, and other financial services firms to act like other U.S. industries doing business abroad and defer U.S. tax on the earnings from the active operations of their foreign subsidiaries until such earnings are returned to the U.S. parent company.

In particular, I commend Chairman ARCHER and his staff for the resolution of two questions relating to the interaction of this subpart F provision. The first deals with active financial services income and the ability of the U.S. financial services industry to use so-called hybrid arrangements and other techniques to reduce their foreign taxes. The second clarifies whether the subpart F provision will work as intended if the Treasury Department fails to make current, effective conforming changes to existing regulations, such as the exception for same-country dividends and interest.

Additionally, I understand that the provision to modify and extend the present law treatment of active financial services income under Subpart F contemplates that the Treasury Department will make current effective conforming changes to existing regulations that do not take account the exception provided by the provision. As an example, it is intended that debt instruments held by a U.S.-controlled foreign corporation, the income from which qualifies for the treatment provided by the bill, will be considered to be assets used in a trade or business for purposes of the regulatory requirements under the exception for same-country dividends and interest.

There clarifications are necessary because in January of this year, the Treasury Department issued Notice 98–11, attacking the use of hybrid arrangements to reduce the foreign taxes of U.S.-owned foreign companies. Chairman ARCHER, along with a bipartisan majority of the Ways and Means Committee, strongly opposed the Treasury Department's action on Notice 98–11. In response to the concerns raised by Chairman ARCHER, in June of this year, the Treasury Department issued Notice 98–35, the purpose of which was "to allow Congress an appropriate period to review the important policy issues raised . . . and if appropriate address the issues by legislation." Notice 98–35 also anticipated, and explicitly provided for, the use of hybrid arrangements to reduce foreign taxes with respect to financial services income, and provided specific rules for this application during the interim.

I am very pleased that the provision modifying and extending the subpart F exception for active financial services income was carefully drafted so that nothing in the provision would authorize or allow the exception to be denied because a hybrid arrangement, or any other technique available under foreign law, is used to reduce foreign tax.

Mr. RANGEL. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Madam Speaker, first let me thank my friend from New York and my friend from Texas for bringing this matter to the floor. I strongly support the bill before us.

Principally let me say that this bill provides some relief to people that are needed and it provides some help to businesses. It is a good bill and it is paid for. It will not violate our commitment to preserve all of the surplus until we have come up with a plan to save Social Security. So this is a bill that I believe will enjoy broad support in this House because it does good things and it is totally paid for.

As the chairman pointed out, it accelerates the self-employed health insurance benefits. That is good. On both sides of the aisle we have been trying to help self-employed people by making it easier for them to provide health benefits to their employees.

It extends expiring tax provisions, the research tax credit, very important for this Nation for research and development as well as the work opportunity tax credit, which is used to help people find employment, which will be very difficult otherwise. It has been a very successful program and this bill extends that program. Contributions to private foundations of appreciated property, we make that permanent. That will help private foundations in their efforts to carry out their charitable activities.

As the chairman pointed out, there are very good provisions in here for farmers, including income averaging, ones that are generally supported.

One additional provision I would like to compliment the chairman for including deals with private activity bond caps. By raising those caps, we are going to help state and local governments in dealing with a lot of the infrastructure needs of this country. It is a good provision.

The provisions in here are all good, they are paid for, and I urge my colleagues to support them. I join with the ranking member in my disappointment that we do not have other provisions that should be included in a tax bill before we adjourn, and hopefully we will be able to work out some additional provisions before Congress adjourns this year.

Mr. RANGEL. Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Madam Speaker, I want to thank first of all the gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. ARCHER) for bringing this bill to the floor. I believe that, by and large, this is a very good piece of legislation.

□ 1745

I support extension of the expiring provisions, and I am pleased that we will have this chance today to ensure that these provisions do not expire and that there will be no lapse in these valuable tax credits.

The Research Experimentation Credit is important to Massachusetts. Massachusetts is the home of many high-tech companies and universities that develop technology. The research tax credit inspires the development of technology, which leads to both economic and job growth. The work opportunity tax credit plays a vital role in helping individuals move from welfare to work. This credit is a valuable program that enables many individuals to become self-sufficient. The program has been effective, and it should indeed be continued.

Madam Speaker, there is one provision I believe, however, that should have been included in this legislation. Recently I have introduced legislation, H.R. 4611, which provides a temporary waiver for the taxable year 1998 of minimum tax rules that deny many families the full amount of the nonrefundable personal credit such as the child tax credit and the HOPE and lifetime learning credits.

The Senate finance package included this provision in their extenders bill. I commend them for addressing this important issue, and I hope that we will seriously consider accepting this provision from the Senate.

The Senate bill strikes the appropriate balance between families and business. The House bill addresses important issues, but the Senate bill, I believe, goes further in including an extremely important provision for families, temporary relief from the interaction of the minimum tax with the child tax credit.

Without this fix, all families who claim the child credit with incomes above $45,000 for joint filers and $33,750 for single filers will be required to

make some sort of minimum tax calculation. The minimum tax is not only complicated, it can penalize middle income taxpayers who claim the new personal tax credits.

The Department of Treasury estimates that, in 1998, the alternative minimum tax will deny 800,000 taxpayers who are entitled to both the child tax credit and the education tax credit the full benefits of these credits.

Without enactment of legislation to address this issue, taxpayers who are planning to claim the child credit should be warned that the computation of their taxes will be difficult, time consuming and, I believe, unnecessarily complex. Without simplifying the child tax credit, the child tax credit form that will be required on next year's tax filing will become a nightmare.

Madam Speaker, it is a shame that we did not address this issue in this bill today. The Joint Committee on Taxation estimates that a 1-year solution for taxable year 1998 would cost $474 million. But by not addressing the interaction of minimum tax with nonrefundable personal credits, many families will be cheated of the credits that we, indeed, promised them. The average family will have to pay a tax return preparer in order to fill out forms for these new credits.

Let me also share a quote with my colleagues from a letter that I witnessed today from the editor of Tax Notes, Mr. Christopher Bergin. He says,

> Apparently, few of us Washington types are surprised that the basis of the bill Republican leaders were trying to build at the last minute is a package extending expiring provisions that help mostly business or rich people who like to name foundations after themselves. But House leaders are taking the chance that those outside of Washington, the average taxpayers, may figure out that their congressional representatives did not have time to prevent the alternative minimum tax from eating their child credits because they were too busy taking care of multinational financial intermediaries.

I disagree with part of what was stated, but I also believe that we should have taken up this issue, and I hope that we will do so in the near future.

I have introduced a permanent solution this year, and I hope that we will give families the opportunity that we stated just a short time ago, and I hope that we will not bury them in their tax forms come 1999.

I also thank the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) once again for getting this bill to the floor. By and large, it is a very good piece of legislation.

Madam Speaker, I support extension of the expiring tax provisions. Unfortunately, this was a very small bill whose main purpose was to extend the expiring provisions. Other valuable provisions were not able to be included. I would like to briefly mention a provision that was included in the House-passed version of the Taxpayer Relief Act of 1997, but it was not enacted because it was not included in the conference agreement.

This provision clarifies the tax treatment of the state-mandated consolidation of mutual savings bank life insurance departments. Savings Bank Life Insurance is unique to the three States of New York, Connecticut, and Massachusetts. Last year with the help of Chairman ARCHER, the House addressed this issue.

This provision clarifies the tax treatment of a 12-year dividends payout associated with a state-mandated consolidation by treating it as a deductible policyholder dividend rather than a non-deductible redemption of equity. This provision is extremely important to Massachusetts because in 1990, the State legislature consolidated the State's saving bank life insurance departments into a new non-public stock company, while still providing for the sale of its products through these State banking institutions. New York and Connecticut may follow the consolidation approach taken by Massachusetts.

I am enclosing a letter to Chairman ARCHER thanking him for his assistance on this issue. I look forward to bringing closure to this issue next Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 8, 1998.

Hon. CHAIRMAN BILL ARCHER,
Chairman, Committee on Ways and Means, Longworth HOB, Washington, DC.

DEAR CHAIRMAN ARCHER: I am writing to thank you for your continued support for a provision that addresses potential adverse consequences for Savings Bank Life Insurance (SBLI) institutions that are unique to the three states of New York, Connecticut, and Massachusetts. Last year with your invaluable assistance, a provision was included in the House passed Taxpayer Relief Act of 1997, but it was not enacted because it was not included in the conference agreement for that legislation. The provision would clarify the tax treatment of the state-mandated consolidation of mutual savings banks' life insurance departments.

More specifically, the provision would clarify how the Internal Revenue Code of 1986 should treat certain policyholder dividends mandated by the Massachusetts State Legislature in 1990. This legislation consolidated the state's saving bank life insurance departments into a new non-public stock company, while still providing for the sale of its products through these state banking institutions. Because of the IRS's interpretation of current law, it is essential that Congress clarify that the 12-year dividends payout associated with this consolidation should be treated as a deductible policyholder dividend rather than a non-deductible redemption of equity.

While only the Savings Bank Life Insurance Company of Massachusetts will be affected by the IRS's current interpretation of the Code, the SBLI industries in both New York and Connecticut may be adversely affected if the Code is not properly clarified because they may follow the consolidation approach taken by Massachusetts.

Once again, Mr. Chairman thank you for your assistance. I look forward to working with you on this issue next Congress.

Sincerely,

RICHARD E. NEAL,
Member of Congress.

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

I would simply to respond to the gentleman from Massachusetts on the issue of removing from the alternative minimum tax formula many of the nonrefundable credits that would help higher middle income people.

The gentleman I am surprised would make the statement that he made, because we not only have considered that, it was part of the tax bill that passed the House of Representatives and made permanent in that bill, and that bill is currently over in the Senate being held up by the minority that refuses to let it pass cloture and be adopted.

So that provision not only takes care of 1998 but takes care of all succeeding years, because it is a permanent provision in the law. I am sure the gentleman did not mean to imply that we had been callous relative to that issue this year, because we certainly have not.

Madam Speaker, I reserve the balance of my time.

Mr. RANGEL. Madam Speaker, I yield 3 minutes to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Madam Speaker, I would first like to commend the leadership of the Committee on Ways and Means for this bill. There are some very, very important provisions in this bill that will certainly help the people that I represent in Michigan.

I would like to highlight just a couple of those of particular significance. One is the permanent extension of income-averaging for farmers. I was pleased the day that I was sworn into the 105th Congress, along with my friend and colleague from Michigan, NICK SMITH, to be cosponsoring legislation to provide a permanent extension of income-averaging for farmers, and I am very pleased to see this in this legislation, as am I pleased to see the permanent extension of the current provisions regarding contributions for private foundation.

I also think it is very important that we have accelerated the deduction for health care for self-employed individuals. I would only ask that, as we move forward, that instead of continuing to extend the research tax credit year-by-year, that we seriously consider and, in fact, in the coming year, if not in this bill, permanently extend the research tax credit so that those involved in the critical long-term research efforts of this country know and can plan for the long term as they make decisions that will create jobs for American workers and important new discoveries for Americans.

Madam Speaker, I have twice authored in the last 2 years letters to the President and to my colleagues urging that we adopt a permanent extension of the research tax credit. Over 140 Members of this House have signed those letters, and I notice that as we debate the question of the advanced

technology program and other programs where Members have indicated that they believe that the private sector should be taking the leadership in research efforts, long-term, risky research efforts for the country, that, as we do that, we send a mixed message when we, in fact, do not permanently extend the research tax credit for our country.

So I would urge that, as we move forward, that we make that permanent extension a top priority.

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

Mr. ARCHER. Madam Speaker, I include for the RECORD at this point the final revenue table for the bill.

ESTIMATED BUDGET EFFECTS OF H.R. 4738, THE "REVENUE EXTENSION ACT OF 1998," TO BE CONSIDERED UNDER SUSPENSION ON THE HOUSE FLOOR—FISCAL YEARS

[In millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	1999–02	2003–07	1999–07
I. Extension of Expiring Provisions:													
A. Extending the R&E Credit (through 12/31/99).	7/1/98	−1,526	−866	−409	−296	−170	−39				−3,907	−209	−3,306
B. Extend Work Opportunity Tax Credit (through 12/31/99).	wpoifibwa 6/30/98	−245	−227	−126	−50	−18	−3				−648	−21	−669
C. Extend Contributions of Appreciated Stock to Private Foundations (permanent); Public Inspection of Private Foundation Annual Returns.	7/1/98 [1]	−23	−56	−71	−83	−91	−95	−100	−104	−109	−233	−499	−732
D. 1-Year Modified Extension of Exemption from Subpart F for Active Financing Income (as in H.R. 4579).	tybi 1999	−117	−378								−495		−495
E. Extend the Generalized System of Preferences (through 12/31/88) [2].	7/1/98	−393	−84								−477		−477
F. Permanent Extension of Income Averaging for Farmers.	tyba 12/31/00			−2	−21	−22	−22	−23	−24	−24	−23	−115	−138
G. Extension of Tex Information Reporting for Income Contingent Student Loan Program [2].	10/1/98	Negligible Budget Effect											
Subtotal of Extension of Expiring Provisions.		−2,304	−1,611	−608	−450	−301	−159	−123	−128	−133	−4,973	−844	−5,817
II. Other Provisions:													
A. Treasury Study on Depreciation (due 3/31/00).													
B. Production Flexibility Contract Payments to Farmers Not Included in Income Prior to Receipt.	tyea 12/31/95	Negligible Revenue Effect											
C. Self-Employed Health Insurance Deduction—100% in 2003 and thereafter.	tyba 12/31/02					−206	−637	−680	−602	−257		−2,382	−2,382
D. Increase Private Activity Bond Volume Cap to the Greater of $55 Per Capita or $165 Million Starting in 2003; Phased in Ratably to the Greater of $75 Million Per Capita or $225 million in 2007.	1/1/03					−11	−44	−111	−177	−252		−595	−595
E. Prior Year Estimated Tax Safe Harbor for Individuals With AGI over $150,000 (106% in 2000 and 2001).	tyba 12/31/99		525		−525								
F. State Election to Exempt Student Employees From Social Security [2].	spa 6/30/00		−5	−47	−49	−51	−52	−54	−56	−58	−101	−271	−372
Subtotal of Other Provisions			520	−47	−574	−268	−733	−845	−835	−567	−101	−3,248	−3,349
III. Revenue Offset Provision:													
A. Change the Treatment of Certain Deductible Liquidating Distributions of RICs and REITs.	dma 5/21/98	2,425	1,109	723	640	672	705	741	778	817	4,897	3,713	8,610
B. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines ($0.75 per dose).	vpa DOE	1	2	3	4	5	6	6	6	7	11	31	42
C. Clarify and Expand Math Error Procedures	tyea DOE	12	25	26	27	28	29	30	31	32	90	150	240
D. Restrict Special Net Operating Loss Carryback Rules for Specified Liability Losses.	NOLgi tyea DOE	14	21	29	39	42	40	40	40	42	103	204	308
Subtotal of Revenue Offset Provisions		2,452	1,157	781	710	747	780	817	855	898	5,101	4,098	9,200
IV. Tax Technical Corrections Provisions		No Revenue Effect											
Net Total		148	66	126	−314	178	−112	−151	−108	198	27	6	34

SOURCE: Joint Committee on Taxation.

NOTE: Details may not add to totals due to rounding.

Legend for "Effective column: dma=distributions made after; DOE=date of enactment; NOLgi=net operating losses generated in; spa=services performed after; tyba=taxable years begining after; tybi=taxable years beginning in; tyea=taxable years ending after; vpa=vaccines purchased after; wpoifibwa=wages paid or incurred for individuals beginning work after.

[1] The additional public inspection provisions apply to requests made after the later of the date which is 60 days after the date on which the Treasury Department publishes regulations or 12/31/98.

[2] Estimate provided by the Congressional Budget Office.

Mr. SMITH of Oregon. Madam Speaker, I appreciate the opportunity to rise once again in support of tax relief for America's farmers and ranchers. Regrettably, even though Chairman ARCHER's laudatory efforts recently to provide substantial tax relief to our agricultural producers, small businessmen, and families will not move forward, the American people now understand which party is for lower taxes and sound tax policy.

Today, Chairman ARCHER brings to the floor a scaled-down package of Tax Code extensions, which appear to enjoy the support of Congress and the administration. I regret we cannot do more; but I applaud the Ways and Means Committee for not giving up on the American people.

Making income averaging permanent provides U.S. farmers and ranchers a useful tool they may use to even out their tax liabilities from one year to the next. In agriculture, and especially in light of the current crisis, this significantly mitigates the economic hazards of farming and ranching.

The bill also accelerates the phase-in of the health insurance deduction that will be extremely helpful to farmers and other self-employed people and their families. The full deduction will be realized in 2003.

Finally, Madam Speaker, this bill assists agricultural producers in meeting their tax obligations under the Agricultural Market Transition Act (AMTA) of the 1996 farm bill. Congress already has provided the USDA with authority to speed up AMTA payments, which will help many farmers this year, and with this bill, these payments will receive an appropriate tax treatment.

This is a good bill. It will be helpful to American agriculture, and it is the very least we can do. I urge all my colleagues will vote for it.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and pass the bill, H.R. 4738, 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.

CALLING ON THE PRESIDENT TO RESPOND TO INCREASE OF STEEL IMPORTS AS A RESULT OF FINANCIAL CRISES IN ASIA AND RUSSIA

Mr. ARCHER. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 350) calling on the President to take all necessary measures under existing law to respond to the significant increase of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes.

The Clerk read as follows:

H. CON. RES. 350

Whereas the current financial crises 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 significant increases 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 over 70 percent in the first 5 months of 1998 compared to the same period in 1997;

Whereas year-to-date imports of steel from Russia now exceed the record import levels of 1997, and steel imports from Russia and Ukraine now approach 2,500,000 metric 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; and

Whereas many would recognize that there may be a need to determine if there should be improvements in the enforcement of United States trade laws to provide an effective response to such situations: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress calls upon the President to—

(1) pursue vigorous enforcement of United States trade laws relating to unfair trade practices with respect to the significant increase of steel imports into the United States, using all remedies available under all those laws;

(2) pursue consultations with officials of Japan, Korea, the European Union, and other nations to eliminate import barriers that affect steel mill products and to increase access to their markets;

(3) closely monitor United States imports of steel and make the data gathered from such monitoring available to the public as soon as possible; and

(4) report to the Congress by no later than January 5, 1999, on the impact that the significant increase in steel imports is having on employment, prices, and investment in the United States steel industry.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include extraneous material on the resolution, H. Con. Res. 350, now under consideration.

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

There was no objection.

Mr. VISCLOSKY. Madam Speaker, I wish to be recognized in opposition to the resolution.

The SPEAKER pro tempore. Is the gentleman from New York opposed to the resolution?

Mr. RANGEL. No, Madam Speaker.

Mr. VISCLOSKY. Madam Speaker, the gentleman from Indiana is opposed to the resolution.

The SPEAKER pro tempore. The gentleman from Indiana (Mr. VISCLOSKY) will control 20 minutes.

Mr. VISCLOSKY. Madam Speaker, I also ask unanimous consent that we extend debate on this resolution for 1 additional hour, given the important nature of the resolution before the House.

The SPEAKER pro tempore. Does the gentleman from Texas (Mr. ARCHER) yield for the purpose of extending the debate for 1 additional hour?

Mr. ARCHER. No, Madam Speaker. I cannot accept, Madam Speaker. This bill is under suspension and should be covered by the normal rules for suspension.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARCHER) will be recognized for 20 minutes; the gentleman from New York (Mr. RANGEL) will be recognized for 20 minutes; and the gentleman from Indiana (Mr. VISCLOSKY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

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

Madam Speaker, I rise today in support of H.Con.Res. 350. I worked with my colleague from Ohio (Mr. REGULA) to develop this resolution which expresses the strong will of Congress that the President must respond to the significant increase in steel imports. This resolution expresses the clear signal that we must take action under our existing laws to preserve U.S. jobs in this vital sector.

Some are seeking to politicize this issue, asserting that this resolution is not strong enough. Frankly, I do not understand that strategy. We must be united in our call to the administration to take action. The resolution makes perfectly clear that Congress is gravely concerned that the financial crises in Asia and Russia have led to a collapse in demand for domestic steel and that a number of our trading partners are closing in their markets to foreign steel, leaving the U.S. vulnerable to sky-rocketing levels of imports.

In fact, this language in the resolution is virtually identical to the so-called bipartisan resolution, H.Con.Res. 328, introduced last month.

Furthermore, the resolution calls upon the President to pursue vigorous enforcement of U.S. trade laws with respect to steel; to negotiate with Japan and Korea and the EU to eliminate barriers and open their markets to the glut to the steel on the market; to closely monitor import levels; and to report to Congress by January 5 on the impact that the significant increase in steel imports is having on employment, prices, and investment here.

Madam Speaker, I hope we will not play politics today. We have no disagreement about the impact that the significant increase in steel imports is having on the U.S. industry and on its workers. I do not understand why this resolution should pass by anything other than a unanimous vote so that we can send a clear, united message to the President that the Congress is deeply concerned.

Madam Speaker, I reserve the balance of my time.

Mr. RANGEL. Madam Speaker, I have no speakers, so I reserve my time at this time.

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

Madam Speaker, the gentleman from Texas (Mr. ARCHER) stated correctly that there is a significant problem with a surge in steel imports into the United States of America. In the first 6 months of this year compared to the first 6 months of last year, imports have surged from South Korea by 89 percent.

□ 1800

Imports from Japan have surged 113 percent. Imports from Indonesia have surged over 300 percent. People have lost their jobs. They are not going to get laid off, they are not going to lose their jobs, they have lost their jobs.

The gentleman from Texas was also correct, that in a bipartisan fashion a period of time ago, a significant number of Members in the House of Representatives introduced a resolution to

call upon the administration, that has not acted on this matter, to take action. The administration has not acted, and people have lost their jobs because of that. That is why we are here tonight, because if the President of the United States is not going to enforce the trade statutes of the United States of America, we have a constitutional responsibility to do it in this House.

I have the utmost respect for the gentleman from Ohio (Mr. REGULA), the chairman of the Congressional Steel Caucus, as well as the Vice-Chair, the gentleman from Pennsylvania (Mr. MURTHA), and the gentleman from New York (Mr. QUINN), who chairs the executive committee.

We were all on that original resolution, and we called for the enhanced enforcement of the United States trade laws with respect to the surge in steel imports. We asked that the United States government use all remedies available under those laws, including offsetting duties, I stand to be corrected if that is not the law of the land today, and the instrument of the law under the Constitution that the President can use today.

We said in that resolution, that bipartisan resolution, calling upon our president, who has not acted, that he should use quantitative restraints if necessary. That is exactly what the European community has done. They have put up a wall. People are so cavalier when they come in. They say yes, the Europeans did it, but we are going to cause a crisis internationally if we simply protect ourselves from an illegal international action.

If I am wrong that quantitative restraints are not allowable under the law of the land today, I stand to be corrected right now, and other authorized remedial measures as appropriate that are available to the President of the United States.

The second paragraph of that resolution that was introduced in a bipartisan fashion to call upon the President, who has not acted, said that the President should 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.

The language we have before us today says that we should consult with the officials of Japan, we should consult with the officials of Korea, we should consult with the European Union. I bet Mr. Kim at Pohang Steel is going to lay awake tonight worrying about our consultation. We are going to consult him to death between now and January 3. Mr. Yakamura of Nippon Steel in Japan, the guy is probably going to have a heart attack because we are going to consult with the Japanese. We have been consulting for 6 months, and nobody has taken any action.

I bet the foreign ministers of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, I bet they are going to be apoplectic because we are going to consult with them.

Do Members know what, they have a job. They have a job. But 450 white-collar workers at Inland Steel in Chicago, Indiana, they do not have a job today. They do not have a job today. On October 7, 2 days ago, or 5 days ago, I stand corrected, Timken Steel in Pittsburgh, Pennsylvania, laid off 160 workers. They do not have a job today. That foreign minister in France got his job.

Forty-seven steelworkers who were laid off at three Ohio steel-producing facilities last month, those 47 workers, I will bet most of them are married, I will bet most have kids, most have a mortgage, and they cannot wait until January 5, with Christmas and Thanksgiving, and three months of feeding their kids and sending them to school.

We have 40 union workers laid off at Timken Steel in Latrobe, Pennsylvania. We had, on September 2nd, 400 people laid off at Inland Steel, in addition to the 450. Geneva Steel in Utah, an 18 percent cutback, 355 people as of September 29. As of 1½ weeks ago, those 350, they are not working, but the guy in Luxembourg, the guy in Japan, the guy in Korea, he is working. He is working.

The President has done nothing. We have an obligation to do something. The third portion of our resolution, bipartisanly introduced, said that the administration ought to establish a task force within the branch with the responsibility for closely monitoring imports. No great quibble here.

The resolution before us today says we will continue to closely monitor. A lot of good that has done for all of these other people that have continued to lose their jobs, the 200 people in Fairfield, Alabama, who on September 1 were laid off by U.S. Steel, the 100 people in Mon Valley, Pittsburgh, who were laid off on September 1.

That monitoring so far to date, the last 6 months, has not helped the people at Slater Steel, where 51 positions were eliminated last week. Last Thursday, 51 people lost their jobs. It did not help them that we have been monitoring since last summer.

The last part of our resolution said that there should be a report to us, to the Republicans, to the Democrats, a report to us by the President, who has not acted, on the comprehensive plan we want him to develop to deal with this surge. We want a plan in place. We want action taken no later than that. The resolution before us today said that the President ought to report back and say he should tell us what the impact is by January 5.

I have a couple more. Acme Steel in Riverdale, Illinois. They just filed for Chapter 11 bankruptcy. A good thing we had a bankruptcy bill on the House floor last week. We anticipated that event.

We have lost jobs. We are losing jobs as the weeks go by. We are asking for the President to come back in 3 months with this resolution and say, tell us what the impact is, Mr. President. We would really like to know.

Everybody in this Chamber is smart enough to know what the problem is. I respect all of my colleagues on both sides of the aisle, because we all want the same thing to happen. We want the President of the United States to act. We want this institution to act.

But in the last day or two of this Congress, to stand before the American people with a resolution that says, report back to us on the impact, let us monitor this, let us consult people to death, is a sham, and I am not going to lie to the workers who are losing their jobs every day.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, House Concurrent Resolution 350 recognizes that the U.S. steel industry is experiencing difficulties as a result of a significant increase in imports of steel into the United States, and calls on the President to take all measures under existing law to respond to this increase.

The financial crisis or crises in Asia and Russia have made a number of industries, including steel, vulnerable to increased imports from countries seeking to bolster their currencies and improve the current account balances.

This resolution is tough but fair, and I urge my colleagues to support it. I support using our existing trade laws to address the question of whether steel is being traded unfairly and injuring our industry and workers. In fact, I understand that the steel industry has brought a number of antidumping petitions within the last 2 weeks. I urge the industry to continue to pursue this track, and the Commerce Department and the International Trade Commission to consider these petitions promptly.

Some say that we should change our trade laws in advance to accommodate these cases before they have been decided. Much as I sympathize with the plight of the U.S. steel industry and its workers, I believe it would be premature to make such changes.

First, we must not prejudge or interfere with the outcome of pending litigation. Second, we must resist the urge to unilaterally close our markets at this delicate time. Shutting our doors through protection would set a bad example for Asia and Russia, and for the rest of the world, that closed trade is an acceptable policy in difficult economic times. History shows us that it clearly is not. We should not tolerate

policies that limit imports of our goods and services, and we should not permit Asia and Russia to increase U.S.-bound exports excessively, to the detriment of our companies and workers.

Instead, we must pursue trade liberalization abroad by action to increase our access to other markets. We should be on the lookout for increased Asian and Russian trade barriers. We must also encourage Japan to open its markets to absorb excess capacity from its neighbors.

In short, we have to do everything we can to get the Asian region and Russia back to health so their consumers may continue to purchase our goods and services and create opportunities for our companies and workers. The financial crisis is an opportunity to foster trade liberalization in these markets, make systematic changes that will open markets, increase transparency, and bolster confidence.

Accordingly, the resolution calls upon the President to pursue vigorous enforcement of U.S. trade laws relating to unfair trade practices using all remedies available under all those laws, pursue consultations with our trading partners to eliminate barriers and increase access to those markets, closely monitor U.S. imports of steel, make that data available to the public, and report to Congress by January 5 on the impact the significant increase in steel imports is having on employment, prices, and investment in the industry.

I would like to congratulate several of my colleagues for their role in bringing this resolution to the floor today, including the gentleman from Pennsylvania (Mr. ENGLISH), the gentleman from Ohio (Mr. REGULA), and the gentleman from Illinois (Mr. WELLER).

I would particularly like to thank the gentleman from Alabama (Mr. ADERHOLT), who, while not a member of the Committee on Ways and Means, has worked hard on this issue.

Madam Speaker, I urge my colleagues to vote for this resolution, which sends a strong warning to our trading partners that we are on the lookout for our steel industry and its workers.

Madam Speaker, I reserve the balance of my time.

Mr. VISCLOSKY. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KLINK).

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

Madam Speaker, I decided to run for Congress after I covered in the news business the decline of the American steel industry while working for a television station in Pittsburgh, Pennsylvania. 155,000 industrial jobs were lost while this country and this Congress and various presidents sat here and fiddled and carried on, and did not care about what was happening in what has become known as the rust belt of this Nation.

My dear colleague, the gentleman from Indiana (Mr. VISCLOSKY) just talked a moment ago about the hundreds of our constituents in this country who are losing their jobs each day, and each one of them is a tragic story. Each one of them is someone who cannot make a car payment, cannot make a mortgage payment, does not know how they are going to pay the bills.

They had a great job in the American steel industry, in a Nation that has led the production of steel for generations. Now, we are saying to them, the President will not stand up for you. He will not use the tools at his disposal, and this Congress can just use a lighter shade of pale of the resolution that this Congress in a bipartisan manner suggested that we pass to force this administration to do everything in their power to stand up for this industry and for those American workers.

Steel prices in this country have fallen 20 percent over the last 3 months, and workers are being laid off because the Asian countries and Russia are dumping their steel on this country. Unfair trade practices are taking place that are having an incredibly bad effect across this Nation.

What do we do? We want to study the issue. We want to consult about the issue. We want to formulate a report which will come back after the first of the year. I will tell Members right now what the report is going to say. I will save the Members the money, the millions of dollars it would take to write that report. What is going to happen is more workers will be laid off, steel plants will close, and our communities will fall apart.

We have to take action. These trade laws are on the books. Allegheny Ludlum in Leechburg, which is just outside of my district, they have already laid off over 100 workers this year because of the cheap foreign imported steel.

There is not a college, there is not an MBA course, there is not a university in this Nation that can teach you how to run a steel plant when you have become as efficient as you can, when you are producing steel cheaper than you have ever done, you are producing as much as you can produce, and you are still losing money. Why are we losing money? Because we are allowing this cheap imported steel to be dumped here that is being subsidized by other nations.

The truth of the matter is that instead of calling on the President to pursue enhanced enforcement, we are now saying, just vigorous enforcement. Instead of calling upon the President to use all the tools at his disposal to share Asian and Russian imports with Japan and the European union, this bill suggests we pursue consultations.

We have pursued enough consultations, Madam Speaker. It is time we take action. This bill is a sham.

Mr. ENGLISH of Pennsylvania. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, this resolution puts our trading partners on notice that the U.S. Congress will not tolerate predatory trade practices. This resolution also pressures the administration to use its legal authority, including remedies that in my view could include offsetting duties and quantitative restraints, to the benefit of a strategic sector of the American economy.

I call on the administration to act expeditiously to eliminate the damage that is being caused by illegal dumping of foreign steel products. Russia, Brazil, Korea, China, and Japan should not be allowed to export their economic mismanagement to the United States.

□ 1815

Dumping is an unfair, intolerable and illegal trade practice that is hurting American steel companies and putting American jobs at risk.

Due to their economic crises, foreign steel companies in these countries and elsewhere cannot sell their products for domestic consumption. In order to liquidate their inventory, foreign steel producers are dumping their products in the U.S. by selling at prices below production costs.

Steel imports through May 1998 increased by a staggering figure, over 70 percent from last year, and now constitute one-third of the domestic steel market. Over the last decade, Mr. Speaker, the American steel industry has been revitalized and become one of the most competitive industries in the world. This substantial accomplishment is now in jeopardy due to illegally traded steel imports, and the companies involved support this resolution.

Let us be clear, a vote for this resolution is a vote for a strong domestic steel industry. A vote against this resolution, contrary to what we have heard on the other side, is a vote against the vital interest of every American steelworker whose job is at risk because of illegal imports.

Mr. Speaker, I challenge every Member of this body who aspires to represent working families to set aside partisan poses and vote for fair trade and for this resolution.

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

Mr. VISCLOSKY. Mr. Speaker, if I could ask the Chair what the time remaining is on each side.

The SPEAKER pro tempore (Mr. BLUNT). The gentleman from Indiana (Mr. VISCLOSKY) has 9 minutes remaining, and the gentleman from Pennsylvania (Mr. ENGLISH) has 11½ minutes remaining.

MR. ENGLISH of Pennsylvania. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Ohio (Mr.

REGULA), chair of the Congressional Steel Caucus.

Mr. REGULA. Mr. Speaker, we have heard the slogan, "Stand up for steel." Today we are standing up for steel. What we are really talking about are two objectives. One is to save steel jobs in this Nation, the other is to get the President and the Cabinet members energized to help us save those steel jobs.

This is the message that we want to send down Pennsylvania Avenue. We have had discussions. We have had a lot of talk, but now we need action.

Other speakers have detailed the extent of the problem. Exports are up from Russia, 45 percent; from Korea, 89 percent; from Japan, 113 percent; Indonesia, 308 percent. And, of course, the European Union put in quotas, as was mentioned earlier. Even though their population is the same as ours, roughly, they import one-tenth as does the United States. I think it tells us very clearly how we are being the target for all the surplus steel capacity around the world.

What we do in this resolution is say to the administration: Take action. It is a strong message. We can talk about semantics. We can split hairs. The real answer is we have got to get the message down there. And whether it is the resolution offered by the gentleman from Indiana (Mr. VISCLOSKY), whether it is mine, whether it is the resolution offered by the gentleman from Texas (Chairman ARCHER), none of those will mean anything unless the administration is willing to take action.

But I would point out to my colleagues that in this resolution before us today we call for the President of the United States to pursue vigorous enforcement of our unfair trading laws using all remedies available under all laws. In other words, use all of the tools available.

Are there tools? Yes, there are tools. The President can invoke national security matters and immediately put on quantitative restraints, if the President were willing to do this.

Mr. Speaker, he can pursue the test of emergency conditions in the United States, and there is an emergency. Again, the President can act without any further action.

Thirdly, the President and the Commerce Department can bring 201 and 301 cases. They have not done so.

Fourthly, they can find critical circumstances under dumping, allowing retroactive imposition of duties. So, there are many tools available.

Last week I, as chairman of the Steel Caucus, along with the gentleman from Minnesota (Mr. OBERSTAR) met with Senator SPECTER, chairman in the Senate, and Senator ROCKEFELLER, and we met with Treasury Secretary Rubin, Secretary of Commerce Dailey, with Trade Ambassador Barshefsky, and with the chairman of the Council of Economic Advisors, Mr. Gene Sperling. We gave them the outlines of the problem. And what we had from them is talk. As I said to them, there is a Chinese proverb that says, "Talk does not cook rice."

What we need is for this administration to start dealing with this problem and not giving us talk. This resolution provides for disclosure to the public so we know what is going on. And I think that it will require action by our Committee on Ways and Means.

I would point out of all the resolutions, this is the one coming out of our Committee on Ways and Means. To really work on this problem, we need the cooperation and we need the help and we need action by the Committee on Ways and Means.

But right now, the President of the United States can take action to save those steel jobs. Mr. Speaker, I say to the President, "Mr. President, we want you and your cabinet and your administration to stand up for steel."

Mr. VISCLOSKY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I appreciate the Committee on Ways and Means has acted. I think we all ought to recognize, though, they acted only because we had such a strong vote last week on this issue that showed we could have passed the resolution that was originally introduced.

Now, if my colleagues want to be "Congressman Feelgood," go ahead and vote for this resolution, this watered-down, tooth-pulled language that has no strength in it. If they want to be "Mr. Feelgood," then vote for it.

But if they want to be "Congressman Do-Good," then let us bring this resolution back to the floor that so many of us cosponsored. What we need is some real action.

We need action on voluntary restraint agreements, as we had during the Reagan administration. The gentleman from Ohio will remember that very well. We need retroactive countervailing duties assured to be imposed, once the findings are made on the countervailing duty cases that are pending.

We need to have Japan reduce its exports to the United States. We need Japan to raise their prices to real market condition prices. We need tough language, not this watered-down language that we are dealing with here.

The actions that can be taken with Japan, with Korea to privatize its steel industry, to bring its exports down to the level prior to this past May. And for the European Union to end their quotas on Russian steel that have cut Russian exports to the European Community countries by 50 percent, so that Russia now leapfrogs Europe and dumps their steel in the United States.

Mr. Speaker, these are specific, direct actions that can be taken and we ought to be telling the administration: Do it. Do something good. Stand up for steel.

Let us stand up for something that means action, not just "significant increase," not just "under existing laws," not "establish a monitoring program," as provided in this resolution. That means nothing.

As the gentleman from Indiana said, I tell my colleagues, the leadership in Japan is not quaking in their boots over this language, and neither should the Members on this floor. We ought to have something a lot tougher.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means, and a good friend of steel.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time.

Mr. Speaker, it is time for action. Frankly, it is time that we give a wakeup call to the White House. While steelworkers in Illinois and across this country are losing their jobs, the Clinton administration does nothing.

Tonight, the President is in New York spending an evening with the "limousine liberals," and nothing is being done about steel jobs in Illinois. We are losing jobs in Illinois because the Clinton administration is doing nothing. This Congress needs to speak and call for action, because Illinois workers are losing their jobs while Bill Clinton is in New York.

Asian countries, the countries of Asia and Russia are dumping steel in Illinois and it is costing Illinois workers their jobs. Steel imports from Japan have doubled, while Bill Clinton sleeps. Steel imports from Korea have gone up 89 percent, while the Clinton administration does nothing.

We need action Mr. Speaker. That is why this resolution and that is why this Congress should speak in a bipartisan, unanimous vote telling the Clinton administration get off of its duff and do something and go to work to protect Illinois steel jobs.

There are 20 firms in the south suburbs of the south side of Chicago that I have the privilege of representing. Every one of them are hurting. As the gentleman from Indiana (Mr. VISCLOSKY) pointed out, Acme Steel filed for bankruptcy. Birmingham Steel, which has 400 jobs in Bourbonnais, has now reduced its hours down to where they are only working 4 days a week in order to avoid layoffs. In September, they shut down for a full week, idling 280 workers. Belson Scrap and Steel, 110 employees. They have had to reduce their payroll by 10 percent.

Because the Clinton administration is doing nothing, workers are hurting. We need action. Let us give a bipartisan vote to this resolution and demand action out of Clinton administration.

Mr. Speaker, I rise today in support of H. Con. Res. 350 which calls on the President to enforce existing trade laws to respond to the overwhelming increase in foreign steel imports resulting from the Asian financial crisis.

Mr. Speaker passage of H. Con. Res. 350 is of the utmost importance to the future of the American steel industry and to thousands of steelworkers around the country, many of which I represent in the 11th Congressional District in Chicago's south suburbs. The economic problems in Russia, Asia and Latin America have lead to large scale dumping of foreign steel on the U.S. market with most of this steel being sold at below the price of production in their home markets. As you know Mr. Speaker, this is an unfair and illegal trade practice under both international and U.S. trade policies, and the dumping of foreign steel threatens many good paying American jobs.

This past spring, I along with 64 other members of this House signed a letter to the President asking him to enforce existing U.S. laws against these unfairly traded steel imports. Unfortunately Mr. Speaker, the Administration has failed to act on behalf of the steel industry and American workers. In fact, the problem has only grown worse since this spring, Steel imports for this past July were up almost 45% over July 1997. Imports from Japan and South Korea are up over 113% and 89% respectively.

The impact of this dumped steel has already resulted in layoffs and reduced orders in factories around the country. U.S. Steel has laid off over 100 workers in Pittsburgh and is planning to lay off more workers as orders continue to slow. Geneva Steel has had to let go of over 500 employees, and Northwestern Steel and Wire Company in my state of Illinois has said that it might have to let go as many as 450 workers because of these unfair trade practices. Even Acme Steel Company in Chicago has been forced to file for bankruptcy protection putting even more jobs in question.

I have over 20 firms in my district that produce steel or steel products. Some of these firms are large corporations like Birmingham Steel whose mill in Joliet, Illinois employs almost 400 people, while others are small family owned businesses like Belson Scrap and Steel in Bourbonnais, Illinois with 110 employees. Without immediate action to stem the tide of this unfairly dumped steel, I fear that these steel producers and their workers will face severe harm.

Mr. Speaker, both the steel industry and the steelworkers union have filed suit to stop these unfair practices, but, without swift action by the Administration to stop this unchecked flow of dumped steel, it may be too late for many of our steel companies and steel workers to wait for the courts resolution.

The steel industry has rebounded from the financial difficulties of the 1980's that cost our country over 325,000 jobs. The American steel industry once in decline, now produces the lowest cost and highest quality steel on the planet. If we fail to ensure that American steel plays on a level playing field with the rest of the world, then we place American steel companies and American workers including the 400 at Birmingham Steel and the 110 at Belson in my district in great harm.

It's time to send a message to the Administration, foreign governments, and American workers, that this Congress will not stand idle when American jobs are at stake. I ask for your support for this industry and this important legislation.

Mr. VISCLOSKY. Mr. Speaker, I yield myself 1 minute and 15 seconds.

Mr. Speaker, the gentleman from Ohio (Mr. REGULA) earlier in his remarks talked about the "Visclosky resolution." That was not the Visclosky resolution. That was a bipartisan resolution that the caucus agreed to. We had cosponsors of that resolution language on both sides.

The gentleman from Ohio has had people losing their jobs as recently as 5 days ago: September 2, September 29, October 1, October 8.

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

Mr. VISCLOSKY. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I was referring to the privileged resolution that the gentleman from Indiana introduced, and he was the sponsor of that.

Mr. VISCLOSKY. Which I sponsored, but which contained the bipartisan language.

Mr. REGULA. Most of it, yes.

Mr. VISCLOSKY. Mr. Speaker, reclaiming my time, most of the bipartisan language. So, this was not a partisan issue.

The administration has not acted and that is why we are here tonight. The Commerce Department has not initiated its own investigation. The Trade Rep's office has not initiated its own investigation. Neither has the Commerce Department or Trade Rep office called for countervailing duties. No one in the administration has pressured the European Union to discuss sharing the burden of the financial crisis in Russia or Asia.

Mr. Speaker, I will close my portion of the remarks by indicating that this is not the best all of us can do collectively. The best we can do collectively is to send this back to the committee of jurisdiction and tell them to do better on Wednesday.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. ENGLISH) for yielding me this time.

Mr. Speaker, I am pleased to rise in support of H. Con. Res. 350 calling on our President to promptly take all necessary measures to stop the dumping of foreign steel on our markets.

Mr. Speaker, I commend the gentleman from Ohio (Mr. REGULA) and the gentleman from Pennsylvania (Mr. ENGLISH), sponsors of this measure, along with the distinguished gentleman from Texas (Mr. ARCHER), chairman of the Committee on Ways and Means.

U.S. jobs are at stake if we fail to ensure that foreign markets discontinue the restriction of U.S. steel exports. The administration has told Congress that it is enforcing our trade laws vigorously. Well, foreign steel is still surging into our country from Asia and threatening the jobs of our steelworkers plus the future of our industry, that by all odds is the lowest cost, most efficient producer of steel in the entire world.

I also call on the European Union to do its part to meet the ongoing crisis in Russia by opening its market to the import of Russian steel products. It should stop cutting back its imports from Russia, if it is to put in place a long-term solution to the global financial crisis.

Accordingly, I urge my colleagues to support this important measure.

□ 1830

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT), a distinguished member of the Congressional Steel Caucus and a strong friend of steel.

Mr. ADERHOLT. Mr. Speaker, I want to thank the gentleman from Texas (Mr. ARCHER) and the gentleman from Illinois (Mr. CRANE) for their work to bring this resolution to the floor today.

The United States steel industry is the most efficient and competitive in the world. Currently, however, the industry is in a crisis due to the dumping onto the U.S. markets of below-cost production of steel from countries in financial distress. Although I support this resolution, I strongly believe that we must have an immediate ban on certain foreign steel imports to give the U.S. steel industry a level playing field.

My bill, 4762, which has 6 Republicans and 5 Democrats, does that. The current GATT agreement and the U.S. review process for trade complaints do nothing to help the families who have already lost their jobs. It is wrong to let American jobs die as part of a backdoor foreign policy method for keeping foreign governments and economies afloat. By leaving our ports open to this flood of steel while Europe maintains trade barriers is exactly what we are doing.

I urge the President to immediately stop this flood of foreign, unfairly priced steel. If our trade partners do not like it, let them file a case and go through the same lengthy bureaucratic process that we have to suffer. Seven steel company presidents, 12 Governors and the United Steelworkers of America have pleaded with the President to halt these imports.

This resolution urges the President to engage Europe and Japan to end their trade barriers. I ask for everyone to support this resolution as a first step in an effort to give America's steelworkers a fair chance to compete.

Mr. VISCLOSKY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I rise on behalf of steelworkers in the greater Cleveland area who work at LTV Steel and steelworkers everywhere across this country who realize that this crisis in steel is real.

Workers are losing their jobs, plants are in danger of being shut down, but enforcement of our trade laws is not happening. Today we have the opportunity and the duty to ensure our protections for steel are enforced. But this concurrent resolution is weak. What are we afraid of?

If not now, when is it appropriate to impose quantitative restrictions on steel imports? If not now, when is it appropriate to raise tariffs? What are we about if we allow our steelworkers to lose their jobs without taking emergency actions to protect them?

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

Mr. ENGLISH. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. SOUDER), a strong friend of steel.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from Pennsylvania and the gentleman from Ohio for their leadership, and also my colleague from Indiana for his leadership, and the gentleman from Minnesota (Mr. OBERSTAR) for his part in this important issue, because we clearly see American steel companies being driven out of business with unfair market practices.

We can talk as Republicans all we want about free trade, but, in fact, when you have people who cheat, who do not follow the rules, you cannot have free trade.

I, too, wish this resolution were tougher, but the plain truth of the matter is we are at the end of the session. The Senate is not in session. The only thing we can do at this point is a resolution that puts us on record. This is the best we can do.

If this resolution would go down, it would be a terrible sign because thus far we have been working in a bipartisan way between the two sides to try to point out to this administration and this Congress what is happening in the steel industry.

This book, American Steel, which I would recommend to anyone, tells the details of the founding of NUCOR as well as what was later developed as Steel Dynamics in Indiana. Those two companies drove the price of steel down, yet they cannot compete because of this illegal dumping. We have put so many restrictions on our steel industry, yet they have been innovative.

If we at times do not offer protection when other countries will not play fair, we will not have a steel industry. If we do not have a steel industry, how can we talk about national defense? How can we talk about being a strong Nation if we do not have something as fundamental as steel in this country? We cannot just produce hamburgers and CDs and the type of soft things, those are important, but steel is a foundational part of our country. We cannot lose this industry. This resolution puts us on record as a Congress. If it goes down, it will be a bad, bad signal.

Mr. VISCLOSKY. Mr. Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. TRAFICANT), my friend and the friend of everybody in economic risk in this country.

Mr. TRAFICANT. Mr. Speaker, nearly all of the great economic improvement in the country has the fingerprints of one of America's great chairmen, the gentleman from Texas (Mr. ARCHER). If there is a better Member than the gentleman from Ohio (Mr. REGULA), I do not know him. My friend and neighbor from nearby western Pennsylvania, thank you for all the good things you have done for workers, the gentleman from Pennsylvania (Mr. ENGLISH). So do not take my comments as an attack on you. I am fed up the way our Nation has handled trade matters.

Specifically, we are mandated by the Constitution to regulate commerce with foreign nations. What we have not delegated to the White House, the White House has usurped.

How, they say, can I oppose this resolution? It is nonbinding. The Democrats, it is nonbinding.

Here is my position, here is simply why. They are both nonbinding. Why not make them specific? Why not direct the President to look at this issue? The issue today is not just trade, it is illegal trade.

The steelworkers of America oppose this resolution because it does not specifically address dumping.

The gentleman from Ohio (Mr. REGULA) said there is so much surplus overseas and that we end up buying it all because no one else overseas seems to be taking this surplus. Well, that is not the only problem. This surplus is coming into our country below production cost. Attractive, is it not?

Where is the specificity? Where is it coming from? Japan, Russia, Brazil. Let us talk about Japan. Every President since Richard Nixon threatened Japan with sanctions to open up their market and stop this illegal trade. Every one right up to William Jefferson Clinton. Evidently they never complied. I mean, that is a truthful statement. Workers are fed up.

My community has been decimated, 55,000 steelworkers, Gonesville. And it is our fault.

Let us look at Russia. We are now giving Russia foreign aid. Russia, subsidizing their industries, and the Communists are battling with Yeltsin. Who knows who might win? We are losing.

Let us look at Brazil. We are going to shut the government down over an $18 billion bailout in the international monetary slush fund for Brazil. Brazil is taking our money. They are subsidizing their steel industry, and they are selling steel in the United States of America below their production cost.

Mr. Speaker, I am not talking today about our resolution. I am talking about our failure to basically perform our constitutional mandate. We have allowed White House after White House after White House to negotiate with Communists, foreign leaders. The Constitution does not say we consult; the Constitution says we act.

Specifically, I have before and will have before the House, if this is voted down, a very simple, straightforward resolution that I think the Committee on Ways and Means should bring out. It says, the administration should review every bit of steel coming into our country.

Number two, we review and identify. If there is, in fact, illegal dumping, document it and impose a 1-year ban on anybody dumping illegally in our country. That includes Japan, Russia and Brazil.

Number three, same as the gentleman from Ohio (Mr. REGULA), put that task force together to closely monitor these imports in the future. And finally, report back by January 5, 1999, on the actions the executive branch expects to implement due to the fact that they have uncovered illegal dumping.

We need some specificity. God Almighty here. Democrats with nonbinding resolutions; Republicans with nonbinding resolutions, nonbinding resolutions that are watered down, watered down, watered down without meaning, without focus, without law.

Hell, if we were to do something, we would have brought out the Aderholt bill. I do not slam the Republican Party. I am not slamming the Democrats. It has happened on both sides.

Do you know who I am slamming? All of the Congress. We have allowed the White House to conduct business, and, by God, they should do what the Congress of the United States says or veto it.

I would appreciate a no vote on this resolution.

Mr. VISCLOSKY. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, I rise in opposition to the resolution.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, normally I would be happy to associate myself with the remarks of the gentleman from Youngstown, and, in fact, most of what he said I agree with. But he put his finger on something that I think was critical when he said that our so-called watered-down resolution is watered down

only in the sense that the other side's resolution is watered down. The Regula resolution does not specifically address dumping, nor does ours.

However, ours does put this body on record focusing on this issue. This is, contrary to what we have heard, the only vote we will get on this issue this session. So I want to make it clear here, a vote for this resolution is a vote for a strong domestic steel industry. The American Iron and Steel Institute supports this resolution. A vote against this resolution is a vote against the vital interests of every American steelworker whose job is at risk for illegal imports.

Let us not make a distinction without a difference, as the other side has. Let us support jobs. Let us vote for this resolution as the one way of registering our will in favor of domestic steel.

The SPEAKER pro tempore (Mr. BLUNT). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 350.

The question was taken.

Mr. ENGLISH of Pennsylvania. 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today and then on the motion to suspend the rules postponed from Saturday, October 10, 1998, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3494, de novo;

H. Con. Res. 350, by the yeas and nays;

S. 2095, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CHILD PROTECTION AND SEXUAL PREDATOR PUNISHMENT ACT OF 1998

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 3494.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. HUTCHINSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3494.

The question was taken.

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 400, nays 0, answered "present" 2, not voting 32, as follows:

[Roll No. 521]

YEAS—400

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
Boswell
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
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—2

Lofgren
Paul

NOT VOTING—32

Berman
Borski
Boucher
Castle
Cooksey
Deutsch
Ehlers
Gephardt
Graham
Hefner
Hinchey
Inglis
John
Kennelly
Kilpatrick
Lampson
Largent
McCarthy (MO)
McCollum
Mollohan
Murtha
Norwood
Poshard
Pryce (OH)
Rahall
Ros-Lehtinen
Scarborough
Skaggs
Spratt
Taylor (MS)
Waxman
Yates

□ 1905

The Clerk announced the following pairs:

Mr. LEVIN and Mr. HALL of Texas changed their vote from "nay" to "yea."

Ms. LOFGREN changed her vote from "yea" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BLUNT). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CALLING ON THE PRESIDENT TO RESPOND TO INCREASE OF STEEL IMPORTS AS A RESULT OF FINANCIAL CRISES IN ASIA AND RUSSIA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. 350.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 350, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 153, nays 249, not voting 32, as follows:

[Roll No. 522]

YEAS—153

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bliley
Blunt
Bonilla
Bono
Brady (TX)
Bryant
Burr
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Crapo
Cunningham
Deal
Diaz-Balart
Dickey
Doolittle
Dunn
Ehrlich
English
Ensign
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klug
Knollenberg
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCrery
McInnis
McIntosh
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Northup
Nussle
Oxley
Packard
Parker
Paxon
Pickering
Pitts
Porter
Portman
Radanovich
Ramstad
Regula
Riggs
Riley
Rogan
Rogers
Roukema
Ryun
Salmon
Sessions
Shadegg
Shaw
Shays
Shuster
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Wamp
Watkins
Weldon (FL)
Weller
White
Wicker
Wolf
Young (AK)

NAYS—249

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Boswell
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burton
Buyer
Callahan
Capps
Cardin
Carson
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Frank (MA)
Frost
Furse
Gejdenson
Gonzalez
Goode
Goodling
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinojosa
Holden
Hooley
Hostettler
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kind (WI)
King (NY)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Neal
Neumann
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pombo
Pomeroy
Price (NC)
Quinn
Rangel
Redmond
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sherman
Shimkus
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spence
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Watts (OK)
Weldon (PA)
Wexler
Weygand
Whitfield
Wilson
Wise
Woolsey
Wynn
Young (FL)

NOT VOTING—32

Berman
Borski
Boucher
Castle
Cooksey
Deutsch
Ehlers
Gephardt
Graham
Hefner
Hinchey
Inglis
Kennelly
Kilpatrick
Lampson
Largent
McCarthy (MO)
McCollum
McDade
Mollohan
Murtha
Nadler
Norwood
Poshard
Pryce (OH)
Rahall
Ros-Lehtinen
Scarborough
Skaggs
Spratt
Waxman
Yates

□ 1915

Messrs. DUNCAN, ROYCE and SHIMKUS changed their votes from "aye" to "no."

Mr. LAZIO of New York changed his vote from "no" to "aye."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1998

The SPEAKER pro tempore (Mr. BLUNT). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2095, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON) that the House suspend the rules and pass the Senate bill, S. 2095, as amended.

The question was taken.

RECORDED VOTE

Mr. MILLER of California. 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 153, noes 248, not voting 33, as follows:

[Roll No. 523]

AYES—153

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Collins
Combest
Cox
Crane
Crapo
Cubin
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Fawell
Foley
Fowler
Gallegly
Gekas
Gibbons
Goodling
Goss
Granger
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Houghton
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Kasich
Kim
King (NY)
Kingston
Knollenberg

Kolbe
Lewis (CA)
Lewis (KY)
Linder
Lucas
Manzullo
McCrery
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Myrick
Nethercutt
Ney
Northup
Nussle
Oxley
Packard
Parker
Paxon
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Saxton
Schaefer, Dan
Schaffer, Bob
Sessions
Shadegg
Shaw
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Wamp
Watkins
Watts (OK)
Weller
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)

NOES—248

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bentsen
Bereuter
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Coburn
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (KS)
Moran (VA)
Morella
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Petri
Porter
Portman
Price (NC)
Quinn
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sánchez
Sanders
Sandlin
Sanford
Sawyer
Schumer
Scott
Sensenbrenner
Serrano
Shays
Sherman
Shimkus
Sisisky
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Snyder
Souder
Stabenow
Stark
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Weldon (FL)
Weldon (PA)
Wexler
Weygand
White
Wise
Wolf
Woolsey
Wynn

NOT VOTING—33

Becerra
Berman
Borski
Boucher
Castle
Cooksey
Deutsch
Ehlers
Gephardt
Graham
Hefner
Inglis
Kennelly
Kilpatrick
Klug
Lampson
Largent
McCarthy (MO)
McCollum
McDade
Mollohan
Murtha
Nadler
Norwood
Poshard
Pryce (OH)
Rahall
Ros-Lehtinen
Scarborough
Skaggs
Spratt
Waxman
Yates

□ 1925

Mr. FOX of Pennsylvania and Mr. HULSHOF changed their vote from "aye" to "no."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. MCCARTHY of Missouri. Mr. Speaker, during rollcall votes Nos. 521, 522 and 523 on October 12, I was unavoidably detained. Had I been present, I would have voted as follows: on rollcall No. 521, "yea"; on rollcall No. 522, "nay"; and on rollcall No. 523, "nay."

FAREWELL ADDRESS

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

Ms. HARMAN. Mr. Speaker, I regret that my final hours in the House are not among its finest hours.

My dream of public service began in 1960, when, as a high school student, I witnessed the nomination of John F. kennedy for President of the United States. Congress is the only public office I have ever held. My record reflects many attempts to generate and embrace bipartisan solutions. My bipartisan district has applauded these efforts like last year's balanced budget agreement. But it also shares my dismay at the tenure of our floor debate last week on whether to begin an inquiry of impeachment of the President.

The floor debate had more the feeling of a rally than a sober exercise of one of Congress's most awesome responsibilities under the Constitution. Indeed, it seemed to me that many Members in the Chamber were gleeful and that the exercise was payback for some earlier slight, whether from the President or someone else.

Mr. Speaker, thousands of my constituents have contacted me in the past 2 months and by a recent count of 9 to 1 have made clear they find the President's conduct wrong, as I do, but they do not want him impeached.

Mr. Speaker, I have said in other forums that not only is the President on trial, so is Congress. Unless we show the Nation we can trust and respect each other, the Nation will not trust and respect the result of our inquiry.

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Mr. Speaker, thousands of my constituents have contacted me in the past two months, and by a recent margin of nine to one have made clear that they find the President's conduct wrong, as do I, but they do not want him impeached.

Many favor alternative remedies: censure, rebuke or criminal or civil prosecution. All feel that a prolonged inquiry risks distracting the nation at a time of serious economic and international instability.

But, as so often happens in the House, we were confronted with imperfect legislative choices. With reservations, I cast my vote for an inquiry of impeachment limited in time and scope so that Congress can fulfill its obligations under the Independent Counsel law and the Constitution, consider alternative sanctions, and conclude its review by year's end. This, I believe, was the more appropriate course for the House to take than an open-ended, wide-ranging inquiry as proposed by the Judiciary Committee majority.

Regrettably, the vote was essentially partisan, and the atmosphere dramatically different from Congress' 1974 impeachment inquiry concerning President Nixon. At the time, I served as chief counsel of a Senate Judiciary Subcommittee, and vividly recall a process which, at an early stage, generated widespread acceptance and an orderly transition of power.

It saddens me greatly that I end my service in Congress as a participant in a process that hurts this institution, the office of the presidency and, most important, the American people.

I've said in other forums that not only is the President on trial—so is Congress. Unless we show the nation we can trust and respect each other, the nation will not trust and respect the result of our inquiry.

Mr. Speaker, nearly six years ago, I stood in this well with other members of the newly-elected 103rd Congress to take the oath of office from Speaker Tom Foley. As all who have shared that exhilarating experience, it opened an important and wonderful chapter in my life—a chapter which I will soon bring to a close.

January 1993, opened auspiciously for the nation. A new Congress and new President had been elected and a new approach to governing—to addressing important economic and fiscal issues—was blossoming. History, of course, will evaluate whether we have acquitted ourselves well in the six years since. To be sure, Congress and the President made significant gains in some policy areas, particularly in working to achieve the first balanced budget in a generation. In other critical policy areas, nothing was done. And, regrettably, in some areas, efforts to roll back significant gains, particularly for women, have gathered momentum.

Having campaigned on a platform of "pro-choice, pro change," I came to the nation's capital with strong views, experience in both the public and private sectors, and a determination to "represent" the needs of my newly-created defense-dependent district. During my campaign I said I would seek a seat on the House Armed Services Committee, a request for which I received the strong support of my dear friend Les Aspin, the Committee's then-chairman and soon-to-be Secretary of Defense. Later, with the help of Democratic Leader RICHARD GEPHARDT, I was able to realize another goal: to serve on the Permanent Select Committee on Intelligence, a committee, again, with relevance to my district's interests.

I call California's 36th District the "aerospace capital of the world." In 1993, it was suffering from deep cuts in defense spending as a result of the end of the cold war. Unemployment was in double digits, particularly among skilled professionals, as defense firms cut back jobs and programs. The patriots who won the cold war were themselves out in the cold.

Helping to rebuild the local and regional economy was the greatest challenge I faced as the new representative. Given the staggering size of the federal deficit and urgent calls for spending on education, technology, health care and the environment, it was clear that we would not restore defense spending to the levels experienced during the height of the cold war.

Instead, we needed a two-prong strategy: first, to support core research and development and procurement priorities that would win the next war, and second, to help aerospace companies diversify into growing commercial sectors like advanced transportation, communications, green technologies, and medical research.

Many of the cutting-edge technologies were then, as now, developed in the 36th District. And, key to retaining this activity was our successful effort to keep the Los Angeles Air Force Base and its Space and Missile Systems Center headquartered in the South Bay. SMC spends over $5 billion a year to play and procure space systems for the Air Force and coordinates much of the defense R&D done by local firms.

In addition, I am proud to have been an advocate of weapons programs that meet our nation's future defense requirements—programs like the C–17 heavy airlift cargo plane, the B–2 stealth bomber, the FA–18 E/F, the MILSTAR satellite, and others which enhanced our armed forces' warfighting capability.

We also recognized that diversification of the industrial base was essential to coping with the vicissitudes of the budget cycles, and assuring that human and plant resources would be there should we need to convert to defense use again.

The recent economic turnabout suggests we made the right decisions.

We helped commercialize defense technologies through programs like the Technology Reinvestment Program—TRP. In fact, the first TRP grant was awarded to a Torrance firm named Hi-Shear Technology, which used rocket technology to power a miniaturized "jaws of life." That product would later be used to rescue individuals trapped in the debris of the Oklahoma City federal building bombing.

Developing such "dual use" technologies not only revolutionized the local economy, but also brought to the marketplace advances that have benefitted the nation as a whole. Direct satellite television, for example, was spawned by defense contractors like Hughes, one of my corporate constituents in El Segundo. Another constituent, Allied Signal, has utilized defense technologies to develop and manufacture ultra-low emission, low-cost electrical generators.

Northrop Grumman has developed the lightweight, fuel efficient Advanced Technology Transit Bus (ATTB). And, of course, the Western Regional Law Enforcement and Technology Center, sited at my request in El Segundo, identifies technologies that can be, and have been, applied by law enforcement agencies nationwide to solving crimes.

Technological advances associated with defense satellites have also found commercial applications. TRW has designed and launched a number of NASA satellites that have helped map our globe, discover valuable resources, anticipate climatic changes, identify weather patterns, and improve our communication capabilities worldwide.

Commercialization was augmented by policies that capitalized on the South Bay's position as a gateway to the economies of the Pacific Rim and Southern Hemisphere. Trade is responsible for an estimated 6.3% of the LA basin's economy, compared to half that level in 1980. And, according to a recent study by the US Department of Commerce, the region experienced a 22.1% growth in exports between 1993 and 1996. In 1996 alone, the LA-Long Beach metropolitan region exported $24.4 billion in merchandise. Exports to Canada grew by 39% and to Mexico by 36%.

In the 36th Congressional District, the percentage of annual trade-related growth is high and many thousands of jobs—including thousands of union jobs—are associated with both the manufacturing of goods for export and the movement of goods through the Port of LA, Los Angeles International Airport and the nearby Port of Long Beach.

The prospect for increased growth with our Asian trading partners remain positive and South and Central America are expected to become an increasingly important part of the burgeoning world trade picture. Los Angeles is making significant capital investments in its port infrastructure, including the Alameda Corridor, in order to meet future demand growth—investments I helped secure in partnership with local, state and the federal governments.

Given the importance of trade to the local South Bay and LA economies, it was only natural for my constituents to expect a strong advocate in Washington. I have tried to be that advocate. I voted for GATT, voted twice to continue most-favored-nation trade status for the People's Republic of China, and voted for innumerable trade and tax law changes and other policies that enhance our competitive position in the world. More recently, over the understandable concerns of some of my constituents, I voted for the measure granting the President fast track consideration of trade agreements he negotiates with our foreign trading partners.

Unemployment in the South Bay is now 5.3 percent and declining. The number of jobs is expected to continue to grow, showing a 17% increase between 1993, when the worst of the aerospace industry's downsizing hit the area, and 2005.

Thus, I am most proud of my role in helping diversify and commercialize defense technologies, which has offset the loss of jobs in the defense sector.

My memberships on the House National Security Committee and the Select Permanent Committee on Intelligence also afforded me opportunities to shape defense policies in anticipation of our nation's security requirements for the 21st century. My focus on defense reform initiatives and the revolution in military affairs has been both interesting intellectually and challenging to implement. I believe more focus is needed on the long-term consequences of some of the policy and budget proposals considered by Congress. The two-year election cycle in the House and the annual appropriations cycle discourage forward thinking, with serious downside consequences.

I believe the urge among some of my House colleagues to re-segregate by gender basic training in the military is particularly short-sighted, as it is unwarranted. Not only do such proposals victimize women and us an opportunity to use our full potential to serve our country in the Armed Forces, they also jeopardize military readiness by micromanaging decision about training which should properly be made by the military services. In my view, what is driving the debate in Congress is not an appreciation for future readiness needs, but an outdated paternalism.

In fact, one of the disappointments during my tenure in Congress has been the increasingly successful efforts to roll back Constitutionally-protected rights, particularly reproductive rights.

Nineteen-ninety-three has been dubbed the "year of the woman" following the 1992 elections, and the 103rd Congress passed a number of significant measures affecting women and families. The first bill signed into law by President Clinton was the Family and Medical Leave Act. I cosponsored it, voted for it, and was thrilled to be part of that landmark event.

We also reversed a number of bans on funding for abortions, particularly for indigent

women who previously had been denied their Constitutional right to choose because of their inability to pay.

The 104th and 105th Congresses have, in contrast, been the most anti-choice Congresses since the Supreme Court's 1972 Roe versus Wade decision. In the last four years, Congress has taken 98 votes on choice-related issues. Abortion opponents have won 82 of them—84 percent. Hopefully, the trend will soon be reversed.

The other major disappointment during my tenure has been the deteriorating tone of debate in the House and the increased partisanship that characterizes consideration of nearly every issue. Last year's balanced budget bill was an exception—but an increasingly rare exception.

Our last major debate on one of the House's few enumerated responsibilities under the Constitution—initiating an impeachment inquiry of the president—was particularly saddening. Sitting on the House floor for the entire proceeding, the sense of gleefulness I sensed from some of my colleagues was particuarly misplaced.

I fear that Congress' ability to address the major issues of the nation is in serious decline. Rather than seeking accommodation between legitimate yet differing views and ideologies, some in this institution—still a minority—have sought to drive even greater wedges between people—wedges to the detriment of the nation and this institution. Partisanship has replaced policy as the focus of attention.

In combination with this Congress' failure to fix a broken campaign finance system, good and decent people will be discouraged from running for office, especially if future Congress' are believed to be as unproductive as this one.

Lack of program also wastes the dedication and hard work of so many Members and staff who currently serve. Indeed, the House is an institution that works best because of the personal relationship it is built on. And, I have been blessed because of the many friends I have made here—friends from both sides of the aisle.

Mr. Speaker, my favorite rhetorical question is to ask why a middle-aged mother of four would run for Congress. My answer: to add something.

During my six years, I believe I have added something. To be sure, I would have liked to accomplish more and to have generated more bipartisanship. I often say that life has many chapters and, as one closes, another opens—sometimes unexpectedly, even serendipitously.

I want to thank all my colleagues who have made my tenure here exciting and rewarding. From the two speakers under whom I've served, Tom Foley and NEWT GINGRICH, to my many colleagues past and present on the committees on which I've served, to those I have met through the variety of ad hoc caucuses and coalitions that arise during the course of governing—thank you all. To my superb staff, you demonstrate everyday what public service is all about. To my family and especially my husband, Sidney, you are, in every way, the wind beneath my wings.

Serving here has been a labor of love. And I thank the citizens of California's 36th Congressional District for the extraordinary opportunity to represent you.

SAUDI GOVERNMENT ATTEMPTING TO CHEAT AMERICAN COMPANY FOR JOB WELL DONE

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

Mr. SMITH of New Jersey. Mr. Speaker, 14 years after the successful completion of the Yanuba Power and Desalination plant in Saudi Arabia, New Jersey-based Hill International is still fighting for payment for the work done by its former subsidiary Gibbs and Hill.

As many of my colleagues know, historically, U.S. firms have had difficulty collecting payment from the Saudi government for work done in Saudi Arabia.

It got so bad that, in 1993, Congress ordered the Department of Defense to investigate the claims and report on all outstanding billings. Of all the claims identified by former Secretary of Defense Les Aspin, only one, the Gibbs and Hill claim, remains unpaid.

Mr. Speaker, nobody in Saudi Arabia claims that the work done by Gibbs and Hill was inadequate nor was it incomplete. In fact, the Saudi government points with pride to the plant. They just do not want to pay for it.

Mr. Speaker, both the House and the Senate have passed my legislation requiring the Department of State, Commerce, and Defense to aggressively pursue a resolution with the Saudi government and report back to Congress. Recently, Secretary of State for Near Eastern Affairs, Ambassador Martin Indyk, assured me and the full Committee on International Relations he will aggressively press this. The time has long come to pay this bill.

In 1993 the Saudis promised Secretary Aspen that they would "spare no efforts in resolving these additional claims in a fair and expeditious manner." Many here in Congress have worked hard to get the Saudis to make good on their promise. As Chairman of the Subcommittee on International Operations and Human Rights, I have raised the issue of unpaid bills to every appropriate member of the Clinton Administration at the State Department and DOD. I've spoken with our Ambassador in Saudi Arabia, Wyche Fowler. And my colleagues and I have pushed this issue directly with Saudi officials, including Saudi Ambassador Prince Bandar.

Yet, the bill still goes unpaid.

I hope that will be enough. It is time the Saudis get the message, not just from Congress, but from the Clinton Administration as well, We will not sit idle as the Saudi government tries to cheat an American company for a job well done.

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. 2204. An act to authorize appropriations for fiscal years 1998 and 1999 for the Coast Guard, and for other purposes.

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

S. 2364. An act to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965."

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BLUNT). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1930

URGING CONGRESS TO COMPLETE LEGISLATION ON DISASTER RELIEF, TRADE POLICIES, AND TAX ASSISTANCE FOR FARMERS AND RANCHERS BEFORE CONCLUDING SESSION

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

Mr. MORAN of Kansas. Mr. Speaker, I rise tonight as we are hopefully concluding this legislative congressional session in hopes that before we return to our respective districts at home, that we make certain that certain business before this Congress is concluded.

We have all been made aware over the last several months, really over the last year, about how serious of a problem American agriculture faces as our farmers, because of significant reductions in commodity prices, but also because of weather and disease, have fared so poorly in 1998.

Mr. Speaker, I hope that in these final days of this session, as we try to find the solutions to our problems and reach the compromises that we desire and that are reasonably acceptable to a majority of Members of Congress, we do not lose sight of the crisis that American farmers and ranchers face.

Mr. Speaker, I hope that before we return home and the final gavel of this session reaches the desktop, that we make certain that the disaster relief bill, at least a version of what we have previously passed by this House and the Senate, although vetoed by the President, I hope that we get disaster relief passed and included in that final appropriation bill.

In addition, Mr. Speaker, we have passed legislation which helps open

markets around the world. The Agricultural Trade Embargo Act, offered by the gentleman from Illinois (Mr. EWING), has passed this House. As I talked to the farmers across my district, it is clear they understand the importance of exports, exports, exports, and trade, trade, trade.

When my farmers and ranchers hear that 52 percent of the people in this world live in countries that we cannot sell to, that they cannot sell to, they know that Congress and the President have failed in their responsibilities.

Under the current farm bill, we have told American agriculture to farm the markets. We have told American agriculture to go out and find the countries to sell to, and to sell the commodities that the world demands. Yet, this Congress and this administration have failed to open those markets and make them available to the farmers and ranchers across this country.

So I encourage the inclusion of significant changes in the law that prohibit future embargoes and sanctions, and also that repeal the embargoes and sanctions that are currently on the books, where appropriate.

I hope that we take care of disaster relief, I hope we do something for trade sanctions and embargoes, and in addition, I hope that we do not leave the issue of taxes and the farmer and rancher and small businessman and woman and oil producer unattended before we conclude this session. Clearly we need help when it comes to the tax burdens faced by our farmers and ranchers.

So again, disaster assistance, trade embargoes, and tax relief are important. Finally, I would encourage, once again, the administration to use the export enhancement program. For almost 2 years now, I have begged, pleaded, encouraged, demanded, insisted, requested, without any success, that this administration utilize the Export Enhancement Program that, at least in the appropriation bill as passed by the House and Senate, was increased from $150 million to $550 million.

What clearer message could we send to this administration about the importance of the Export Enhancement Program than to increase its funding so significantly. Yet, nothing seems to happen in regard to the use of the Export Enhancement Program for the commodities that many farmers and ranchers care about.

Again, Mr. Speaker, I hope that before we conclude this session, before those of us who are anxious to return home are allowed to return home, and before we can feel good about returning home, we will be able to say that we have taken good care of the stewards of this land, and we have provided the assistance required and necessary of the farmers and ranchers of Kansas and the other States in this country.

EXCHANGE OF SPECIAL ORDER TIME

Mr. PALLONE. Mr. Speaker, I ask unanimous consent to claim the Special Order time of the gentlewoman from California (Mrs. TAUSCHER).

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

There was no objection.

CONGRESS SHOULD ADDRESS THE EDUCATION INITIATIVE OF THE PRESIDENT BEFORE ADJOURNING

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

Mr. PALLONE. Mr. Speaker, once again today the House was forced to pass a continuing resolution because of the fact that the Republican leadership has not gotten the job done this year in terms of the budget and a number of other issues that we as Democrats feel should be raised or should have been raised, certainly, over the last 2 years, and should have had full debate, but certainly should be addressed in some fashion before we adjourn.

Most important on that list is the education initiative. This is the initiative that President Clinton announced in his State of the Union address last year when he talked about the need on the local level to provide money for school modernization.

The fact of the matter is that across this country there are schools, and in fact, almost every school district has the need to upgrade their school buildings, either because they have to build additional buildings, or because of upgrades necessary just for simple things like computers or new high technology that require new wiring in the school building.

Every school district around the country could benefit in some way from the initiative that President Clinton announced whereby tax credits, in essence, will be given to the local school districts so they would find it easier to bond to upgrade and modernize their schools.

In addition to that, the President's initiative to hire 100,000 additional teachers in order to reduce class size in the formative years from grades 1 through 3 is another initiative that the Republicans, the Republican leadership, has ignored, has refused to bring to the floor of the House, has really refused to even consider in committee, at hearings, or at markups.

We know, in fact a number of research studies have come out, important ones over the last year, that have indicated very strongly that if we take children at a young age, even younger than grade one, even in preschool, and give them a lot of attention, and manage to have teachers devote the time, if you will, on a regular basis through diminished class sizes, that the result will bear fruit; that we will have smarter children and we will also have a safer atmosphere, because with a smaller class size it is a lot easier, I would say, to manage the children and manage the school.

What we are doing here is trying to, in many ways, model this program to reduce class size and hire 100,000 additional teachers very much on the President's COPS grant program that was passed a few years ago, and that has resulted in many additional policemen being hired in communities around the country, and has actually brought the crime rate down in most of these jurisdictions.

All we are really saying, Mr. Speaker, is that the time has come now, and I know that I do not have to keep repeating over and over again that the Republican leadership basically wasted a lot of time this year refusing to address education, refusing to address HMO reform, refusing to address the need to deal with social security, because we know that the money is not all going to be there in a few years unless we do something.

So we are not going to be able to address all of these issues in the last few days, but at least let us take the opportunity to do something to invest in education, because when I go back to my district, and I was there over the weekend again, back in New Jersey, a lot of the people, a lot of the constituents that I speak to, and certainly educators, say to me that if we do not start a Federal partnership, if the Federal Government does not start to play an increased role in education, then the funding is not going to be there and the opportunities are not going to be there for young Americans in the future. This is our future. This is what is so important for our country.

I just wanted to say, in addition to that, that I have been very disappointed with the fact that we are about to end this session and have not addressed the major health care issue of the day. That is the need for HMO reform.

Some of us last week on the House side, some of the Democrats on the House side, marched over to the Senate on the day when the Senate minority leader, Mr. DASCHLE, tried to bring up the Patients' Bill of Rights. He brought it up and there was a vote. Unfortunately, there was no opportunity. The opportunity to bring it up was defeated on the floor.

But I think it is a shame, because we know, and I am sure every one of us knows, that when we go around the country and when we talk to our constituents, probably the number one issue that they are concerned about is the need for reform of managed care.

So many people have not had operations or procedures that they think

are necessary; have been told that they have to leave the hospital sooner than their physician tells them that they should. The fact of the matter is that all the Democrats are really asking for in the Patients' Bill of Rights legislation is a commonsense approach. That should be heeded. That should be heeded by the House Republican leadership.

EXCHANGE OF SPECIAL ORDER TIME

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I ask unanimous consent that I be able to claim the time in Special Orders of the gentleman from California (Mr. RIGGS).

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

There was no objection.

WHO GETS THE CREDIT FOR THE BUDGET SURPLUS?

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, last week the Treasury Department announced that the Federal budget is in surplus for the first time since 1969. Only 2 short years ago the President had submitted a budget with $200 billion deficits as far as the eye can see, as many will recall.

What happened? There are a lot of Americans who do not care much who gets the credit for the current fine state of our economy, and then tend to take the President at his word when he takes the credit for the budget surplus we have at least achieved.

But it is important to understand how we got here so that we may continue on the path of sound economic policy in the future. When the country was faced with large, chronic deficits at the beginning of the 1990s, Congress faced a choice. To cut the deficit, lawmakers essentially had two choices, cut spending or raise taxes.

President Clinton and his liberal allies in Congress naturally chose to raise taxes. Congress at the time was still under the control of the Democrat party, and so President Clinton was able to pass the largest tax increase in American history. Republicans, on the other hand, wanted to reduce the deficit by cutting spending.

Republicans believe that government is too big; in fact, way too big. They believe that Washington wastes too much of the taxpayers' money. One would think that this is an obvious point. After all, even the President himself said, in his 1996 State of the Union address, that the era of big government is over. If only that were true.

We can see now that this declaration was nothing more than words. Big government is alive and well; in fact, bigger than ever. In fact, the Democrats have come back with still more ways to increase the size and power of the government every year since.

While we can say that government is not quite as big as it would be if the Republicans had not taken control of Congress in 1995, the truth is that government continues to grow. Any attempts to cut government, no matter how wasteful and counterproductive the program, the liberals will immediately attack them as extremist or mean-spirited.

It has never occurred to them that it is perhaps mean-spirited on the part of politicians to have so little respect for the working man's labor that Washington takes between one-fourth and one-third of the middle class family's paycheck just to pay off Uncle Sam.

So that leaves us with the question, how did we go from $200 billion deficits as far as the eye can see only 2½ years ago to the budget surplus we now enjoy. It is true that there have been some reductions in spending, but almost all of them have come out of one place that it should not have come out of, the Pentagon.

Defense spending is now dangerously low, and our military forces are not what they used to be, but liberals, in their boundless faith in human nature, ignore history and simply do not believe in the fundamental precept of peace through strength.

As for other spending, Republicans did manage to limit the number of new spending initiatives by President Clinton and the Democrats over the past few years. But the primary reason why the budget is in surplus today is because revenues are way, way up.

Liberals will point to the President's 1993 tax increase as the reason revenues are up, hoping that we will not examine the budget tables to see if in fact it is true. Revenues are up primarily from the number of people who are taking advantage of low tax rates on capital gains, the part of the economy that is the lifeblood of a dynamic, growing economy.

President Reagan cut the tax on capital gains and the Republicans cut it again just last year. Savers, investors, entrepreneurs, and other job creators have taken advantage of that. The economy is benefiting from jobs. Jobs are being created and revenues have soared. That has been the primary reason why the budget is now in surplus, when it was deep in red only a few years ago.

I would invite any of my Democrat colleagues who dispute these findings to come forward and show me otherwise. Perhaps the liberals have access to another set of government documents with a different set of statistics, but if they use the same Treasury figures that I do, they will have to admit that the Reagan tax cuts and the Republican tax cuts are the most significant reason behind our current economic boom.

With all due credit to Alan Greenspan, chairman of the Federal Reserve, for his outstanding stewardship of monetary policy, we should mostly thank President Reagan for turning around an economy that was in the ditch. We are still benefiting from his decision to make the United States a low-tax, low-regulation economy, and thus able to compete in the world better than any other.

□ 1945

The Republicans forced President Clinton to renounce his own budget with $200 billion deficits as far as the eye can see. We are grateful that he at least accepted the need for the government to balance the budget and put its financial house in order.

We would like to encourage him to continue on this path. Especially if he accepts the view that Washington can still afford to cut spending, cut taxes, and make good on its promise that the end of big government is over.

ORDER OF BUSINESS

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent to use the time of the gentlewoman from California (Ms. PELOSI) out of order.

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

There was no objection.

WORDS OF SIR THOMAS MORE SHED LIGHT ON CURRENT DILEMMAS

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

Mr. ABERCROMBIE. Mr. Speaker, at the conclusion of the hearing held in the Committee on the Judiciary with respect to impeachment, a few words were uttered by Mr. Shippers. He said,

> I'm no longer speaking as Chief Investigative Counsel, but rather as a citizen of the United States who happens to be a father and a grandfather. To paraphrase Sir Thomas More in Robert Bolt's excellent play, 'A Man for All Seasons': The laws of this country are the great barriers that protect the citizens from the winds of evil tyranny. If we permit one of those laws to fall, who will be able to stand in the gusts that will follow?

This was, as Mr. Shippers indicated, a paraphrase. But I suggest, Mr. Speaker, it was a lot more than that. It takes Robert Bolt's words, it takes the life of Sir Thomas More as recounted in the play, "A Man for All Seasons" and turns it upside down.

Mr. Speaker, as one of the Members who has cited a "A Man for All Seasons" and Sir Thomas More's life in my own remarks on this floor previously, I would like to actually read for the

RECORD what was said by Sir Thomas More as conceived by Robert Bolt.

He describes More's son-in-law as William Roper, as follows: William Roper, a stiff body and an immobile face with little imagination and moderate brain, but an all too consuming rectitude, which is his cross, his solace, and his hobby.

That may very well apply to some of the individuals who are taking and twisting Bolt's words, particularly as paraphrased by Mr. Shippers.

What actually takes place is More, in discussion with his daughter and with his wife and with his son-in-law, concerning the law. The daughter says at one point to him, "Father, that man is bad," referring to another individual. Sir Thomas More said, "There is no law against that." The reply from Mr. Roper is "There is, God's law." More says, "Then God can arrest him."

Thinking that perhaps More is trying to set himself up above God's law with man's law, he remonstrates with More. And More says, "Let me draw your attention to a fact. I'm not God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. I doubt if there's a man alive who could follow me there, thank God." His daughter says to him, "While you talk, he's gone," referring to the evil man to whom she had first referred.

More says, "And go he should, if he was the Devil himself, until he broke the law." His son-in-law says, "So now you'd give the Devil benefit of law." And More said, "Yes. What would you do? Cut a great road through the law to get after the Devil?" Roper said, "I would cut down every law in England to do that." And More said, "Oh? And when the last law was down, and the Devil turned round on you, where you would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—do you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake."

I suggest to Mr. Shippers what is at stake here is our law as embodied in the Constitution. The President, all of us, are fully entitled to the protection of that Constitution. It is not the President, it is not those on the Democratic side of the aisle in the Committee on the Judiciary deliberations that are trying to cut down the law. They are trying to protect the law. They are trying to see that the law is implemented the way it was written, and it was written to protect all of us.

If we allow Mr. Shippers, or anyone like him, to cut down the protection of law, then how will we be protected in turn? Yes, it is more than just the President's right to the rule of law being at stake here. What is at stake is whether or not we will, in turn, defend those laws. Because in doing so, we defend ourselves.

So, I recommend, Mr. Speaker, to you and all who are interested, that we take up Sir Thomas More's cross, the one he bore, the one which he paid his life for. And that was that we obey the law in such a way as not to lose our sense of humanity in the process.

Mr. Speaker, I commend to you, and I commend to all, Mr. Bolt's "A man for All Seasons." I commend to Mr. Shippers and his defenders that they not twist the words, but bring them into the reality that reflects the best that is in America and the best that is in our Constitution, and that is the protection of one and all.

A VERY PRODUCTIVE REPUBLICAN CONGRESS

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

Mr. MANZULLO. Mr. Speaker, government does not have to be as complicated as we here in Washington make it. In fact, the only thing that counts to the folks that we represent, and the district that I represent runs from the Mississippi River across the top of the State of Illinois to within one county of Lake Michigan, and the people there are just like the people in the rest of the United States.

They get up early in the morning, go to work, pack their lunch bags. Then on Friday night, the husband and wife will sit down and say, you know, we do not understand it. We are both working and yet we are taking home less money and it cost more to live than ever before.

What those people want is what most Americans want. They want a tax rate that is fair. They want a government that is efficient. They want to be able to use the fruits of their own labors.

That is why this very productive Republican Congress is allowing the taxpayers of this country the ability to keep more of their hard-earned dollars, as opposed to sending it to Washington to be wasted on one of the 10,000 Federal programs that are here.

I was at a luncheon for Scott Forge, a major forge back in our district in McHenry County, and talked to a great number of the work force. I asked, "How many here have children under 17 years old?" And about half of them raised their hands. And I said, "Do you believe that you as parents can make a better decision as to how to spend money on those children than 535 Members of Congress 820 miles from here?" And they all said yes.

Then I said, "For those of you who raised your hands, for every child you have, this year you will pay $400 less in income taxes and next year $500 less in income taxes." And they looked at each other and I said, "Sir, how many children do you have?" And he said, "I have 4." I said, "Next year you will pay $2,000 less in income tax," and the place started to cheer.

I asked, "How many here have kids in the first 2 years of college?" Several people raised their hands. I said, "Would you not be better off spending your money on your kids' college tuition as opposed to paying income tax?" They said yes. And I said, "That is exactly what this Republican Congress has done. They are called Hope scholarships. Up to $1,500 per year for the first 2 years that you can use towards your kid's college education as opposed to paying taxes."

That really is the Republican message. A productive Congress is a Congress that does things for people, not for itself. Do my colleagues think it is productive just because a Congress meets more and more and more days and passes more and more and more laws?

Mr. Speaker, more laws usually mean bigger government, more regulations, and higher taxes to pay for those new programs.

So, while the Republicans are being assailed as a "Do Nothing Congress," we do nothing liberal on the Republican side. But we are doing everything possible for the working people out there. The people that I represent, the ones who are working that Scott Forge who get up very early in the morning and go to work and work there doing all kinds of great things with their hands.

I can look them in the eye and say, "I am your United States Representative of Congress in Washington, and I helped craft and I voted for legislation that lowers your taxes and allows to you keep more of your hard-earned dollars."

That is the message. That is the message that people in this country want to hear. It is a very simple message. I could talk about the President and all the new programs he wants to institute and this and that. But we have to ask, who is going to pay for it all? Do we really think that all the new things that he proposes are going to be free? Who is going to pay for it all?

That is what matters to the people that get up in the morning and go to Scott Forge and work very hard. And I would suggest that these are the people who count. These are the people who have made America, and these are the people that are the beneficiaries of this Republican-led productive Congress.

EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, in time, the American people will grade this Congress on its performance toward improving education. Teachers, parents and even students will examine what this Congress has or has not done to make our educational systems better. Sadly, I must report that, as of tonight, this Congress is failing.

Why is this Congress failing, you might ask? This Congress is failing because we have done nothing to decrease class sizes or to repair deteriorating school buildings.

Schools across the Nation are struggling because student enrollments are dramatically increasing. Evidence shows that there is a direct correlation between class size and learning ability. Students in smaller classes, especially in early grades, make greater educational gains, and maintain those gains over time. Smaller classes are most advantageous for poor, minority, and rural community children. However, all children will benefit from smaller classes. In addition, the greatest impact on learning will only occur if the new teachers brought into the classroom are qualified teachers.

In these final days, Congress still has a chance to correct this deficiency and improve its grade. The Class-Size Reduction and Teacher Quality Act of 1998 can and should be passed before we leave for adjournment. We could even pass it in the Suspension Calendar.

This bill would help States and local school districts recruit, train, and hire 100,000 additional well-prepared teachers in order to reduce the average class size to 18 in grades 1 through 3. Creating 100,000 new positions for teachers is important in order to meet the increasing enrollments. The process will occur over the next ten years. The need for this legislation is paramount. America needs more teachers. More teachers is so critical to maintaining and improving our educational system.

In addition to working to increase the number of teachers and reduce class sizes, we must also work, before we leave for adjournment, to facilitate the rehabilitation and construction of school buildings, many of which are in a critical state of disrepair. Too many of our students in grades kindergarten through twelve are in overcrowded classrooms, with poor curriculums, limited equipment and deteriorating schools. Because 90 percent of our children attend public schools, we must strengthen and improve those schools, particularly school structures.

We have an all-time record school enrollment of 52.2 million students today. The strain on school systems and the impact on learning will be felt for years to come. Poor school buildings discourage learning, with leaky roofs, broken windows, peeling paint, inadequate heat in winter and poor cooling and ventilation in spring and summer.

According to a 1996 Report by the General Accounting Office, some sixty percent of the Nation's schools are in disrepair. American students are falling further and further behind many of their counterparts in countries around the world.

There is a plan to repair our schools. Under this plan, federal tax credits would be used to help underwrite some $22 billion in bonds that would be used to build and renovate public schools.

Mr. Speaker, we must make required reforms, improvement and sufficient investment to provide a quality education system where every child has a chance to learn, develop and contribute.

If we do nothing before we adjourn, our children will ask, why Congress did you fail us?

CENSUS LAWSUITS

The SPEAKER pro tempore (Mr. PITTS). Under a previous order of the House, the gentlewoman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, I rise to discuss the census lawsuits that will be argued before the Supreme Court on November 30 of 1998. Mr. Speaker, you sued the Department of Commerce to prevent it from carrying out its plans to use statistical methods in the 2000 Census. A similar case was filed by private citizens, including the gentleman from Georgia (Mr. BARR).

Members must understand the importance of these cases, as my comments will demonstrate. I am confident that the Supreme Court will rule that the statutes and the Constitution permit the use of statistical methods. We must have the most accurate census possible and the use of statistical methods is the only way to ensure accuracy.

Mr. Speaker, I ran across a very good example of why statistical methods are the only real solution to an accurate census. It appeared this morning in the New York Times, and it talked about the Welcome Wagon. It stated that the Welcome Wagon, this is a program that used to welcome new residents to their neighborhoods and also do a little marketing for local merchants. The article says that the Welcome Wagon is closing its doors. Why? Because people are not home. They cannot find people at home to welcome when they move into the neighborhoods, so they are no longer going to be doing it. They will be reaching out through the mail and other ways.

Mr. Speaker, that is the problem with the census. Knocking on doors to get information, many people are not home in America. That is the case in very simple terms.

Six months ago I came to this well to discuss procedural issues raised in the court cases. As many constitutional scholars suggest, the Supreme Court could rule on procedural grounds and dismiss the cases or remand them back to the District Court. The Supreme Court cannot give advisory opinions. The Constitution states that there must be a case in controversy in order for it to proceed on the merits.

Today, however, I want to switch from the procedural issues and focus on the merits of these lawsuits. The lawsuits filed by the Speaker and by Representative Barr ask the Court to review the Census Act and in particular two sections which discuss the use of statistical methods.

In addition to alleging that the Census Act prohibits the use of statistical methods, the Speaker and Representative BARR argue that the Constitution prohibits their use.

□ 2000

Because neither the Census Act nor the Constitution creates such a prohibition, the Commerce Department may and should use statistical methods in the 2000 census.

The Census Act does not prohibit the use of statistical methods for the purpose of apportionment. Two sections of the Census Act mention the use of statistical methods. Section 141 plainly allows for the broad use of statistics and section 195 states that statistics may be used. Yes, two district courts, the District court for the District of Columbia and the District court for the Eastern District of Virginia recently ruled otherwise. These are the two cases that the Supreme Court will hear on November 30 of this year.

Both of these courts erred in their rulings. First they ignored the plain meaning of each of the words of section 141 and 195. Section 141 gives the Secretary broad discretion to take the census in such manner as he chooses, including the use of sampling. Section 195 limits that broad discretion by stating that if he considers it feasible, the Secretary must use statistical sampling for nonapportionment purposes. However, for apportionment purposes, the Secretary's broad discretion remains as afforded by section 141.

Second, even if the courts determined that the Census Act provisions are unclear as to whether the use of statistical sampling is permissible, they should have deferred to the Census Bureau's reasonable interpretation of these provisions as required by law.

No one disputes the definition of 141, but the real issue is section 195.

Section 195 is clear with regard to the requirement of the Secretary to use statistical sampling for non-apportionment purposes if he deems it feasible. Obviously, Secretary Daley deems it feasible or we would not be where we are today. The question the courts reviewed was what Section 195 says with regard to statistical sampling for apportionment purposes.

The Supreme Court has ruled on numerous occasions that if a statute is silent or anbiguous with respect to the specific issue, the question for the court is whether the agency's intrepretation is a permissible construction of the statute. It should not decide whether the intrepretation is the same intrepretation that the court would have made. Therefore, the District of Columbia Court and the Virginia Courts failed to give the Bureau the discretion it deserved.

Three District Courts, the Eastern District of Michigan, the Eastern District of Pennsylvania and the District Court for the Eastern District of New York, have ruled correctly that the

Census Act allows for the use of statistical methods. That is why I am pleased that the Supreme Court is reviewing the Speaker and BARR's lawsuits.

The Constitution does not prohibit the use of statistical methods for the purposes of apportionment. Instead, it expressly delegates to Congress the authority to conduct the census "in such Manner as they by law shall direct." Congress passed such a law which give the Secretary of Commerce the authority to take the census. THe Secretary of Commerce is doing just that, taking the census. The Secretary has chosen to take the census using the most modern technological advances available.

Now Congress no longer likes the law it passed and no longer wants the Secretary to have the authority to take the census. Congress has the right to change its mind but it must do it by law, not by the Appropriations process and not through the court system. Until Congress passes such a law, the Secretary has the authority to use statistical methods.

I should note that neither the District of Columbia Court nor the Eastern District of Virginia reviewed the constitutional issue. However, the Michigan, Pennsylvania and New York Courts did reach the constitutional issue and they all found that the use of statistical methods is constitutional.

Mr. Speaker, neither the Census Act nor the Constitution prohibits the use of modern technology in the taking of the census. I look forward to the Supreme Court explaining this fact to the House of Representatives and to the American people.

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

[From the New York Times, Oct. 12, 1998]

WELCOME WAGON TO MAKE ITS VISITS VIA POST OFFICE

(By Constance L. Hays)

The Welcome Wagon is rolling up the welcome mat.

Since the 1920's, Welcome Wagon's sales representatives, almost always women, have gone house to house visiting newlyweds and the newly moved-in, bearing greeting baskets laden with coupons, magnets, ballpoint pens and other items sponsored by the local locksmith, the town optometrist and other merchants. But these old-fashioned visits are coming to an end, in a testament to changing life styles or perhaps that traditional corporate desire to cut costs.

The owner of the Welcome Wagon, the Cendant Corporation, is dismissing most of its 2,200 representatives and will replace them with direct marketing through the mail.

So rather than a lengthy visit with the possibility of real-time conversation, each of Welcome Wagon's targeted households will get a bound directory delivered to the doorstep, in which businesses will have paid to advertise. The point is to reach more people, Cendant spokesmen say, and these days, people are not at home as much as they used to be, because of busier families and a surge in working mothers.

Cendant, which also owns Avis car rentals and Howard Johnson hotels, has found itself in financial turmoil this year, but the company says its problems are not related to its decision to change the Welcome Wagon.

This change, however, appears to have taken many sales representatives by surprise and was met with sorrow by some of them. Although they were paid for their work, certain representatives regarded it as more of a social mission than a marketing one. For decades, Welcome Wagon thrived on that very ambiguity, getting over the threshold thanks to its neighborly demeanor when other marketers might not.

"My heart is in these home visits," said Dee Strilowich, the company's top-performing salesperson, who has worked for Welcome Wagon in Ridgefield, Conn., and nearby Redding for the last four years. "I loved giving the welcome and greeting to those new movers, new parents, engaged women."

But Cendant insisted that times had changed, which is why it decided last month to end the visits and lay off its representatives. "It's a different world today," said Elliot Bloom, a spokesman for Cendant in Parsippany, N.J. "In the past, 20 years ago, when you knocked on people's doors, Mom was home. Now she's in the work force."

A vice president for Welcome Wagon in New York and two other states agreed. "We had representatives who were beating their heads against the wall because they had the names of several people to go and visit but could never find them at home," said the vice president, Dinah Watson. She said she was offered a severance package, which she will be taking, and added that the 250 representatives she supervised have until the end of this month to decide whether they will stay with the company.

About 500 people will be retained to work in ad sales for Welcome Wagon, Mr. Bloom said. It is being combined with another Cendant company, called Getting to Know You, that specializes in direct mail.

"Whenever you make a change like this, there is some displacement," said Christopher R. Jones, another Cendant spokesman. Representatives have until the end of the year to make their visits, and after that, "we've asked them to stop."

Mrs. Strilowich, who was greeted herself by a Welcome Wagon representative when she moved to Ridgefield 28 years ago, said she has about 200 visits scheduled through December and would complete them all. She said most of the representatives she had spoken to were sorry to see their jobs end so suddenly. "A lot of them are in the same situation I was," she said, adding that she is the primary earner in her family. "They were looking for at least two or three more years."

Some Welcome Wagon representatives expressed anger over the loss of their jobs and the end of their visits with families. "Cendant sacrificed us for the bottom line," said Wendy Amundsen, one of the company's top-selling representatives, in Stamford, Conn. "Sometimes there are just more important things in life than money."

Cendant has been struggling this year with other, much larger business problems, including an accounting error that stripped $115 million from its 1997 earnings, the subsequent resignations of a host of senior executives, and a stock price that has plunged from $41.69 in April to $9 on Friday.

But Mr. Bloom dismissed as "absolute nonsense" any suggestion that Cendant's wider problems has led to the switch in strategy for Welcome Wagon. He said the company had peaked in 1968 with 1.5 million visits a year, but that the number had fallen to 580,000 last year. Still, Cendant has thought enough of the company to pay $20 million to acquire it in 1995, back when Cendant was known as CUC International and the number of visits was estimated at 500,000 a year.

At the time, CUC said it planned to expand the sales force and did so, adding some 800 positions by this year. The company saw Welcome Wagon as a marketing device for a personal credit-history business it already owned. With little overhead beyond the 100-person management staff, a toll-free number and a World Wide Web site, profits were substantial. And sales representatives, who were paid by the amount of business they solicited from area merchants, could earn as much as $70,000 a year. Many received benefits as well.

Welcome Wagon took its name from 19th century Conestoga covered wagons that would greet frontier settlers as they arrived, bringing food and fresh water from the nearest village. The company was founded in 1928 in Memphis. This summer, to mark its 70th anniversary, the governors of several states, including Wisconsin, declared part of July "Welcome Wagon Week."

"You will visit households when they're celebrating a move, or an engagement, or the birth of a new child," promises the Welcome Wagon Web site, which so far has not been altered to reflect the newly impersonal nature of the operation. "You will also introduce local businesses to Welcome Wagon's unique, personalized advertising program. What could be more fun."

But now the fun is over, "I thought Welcome Wagon would go on forever," Ms. Amundsen said. "Welcome Wagon is like apple pie, baseball, hot dogs. It's an American institution. I thought I would retire in this job."

ON THE PRESIDENT'S TRAVEL PLANS

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

Mr. SOUDER. Mr. Speaker, I want to make a brief comment on the census and some of the education things before I make my major points here. It used to be years ago in the schools they taught the Constitution. Constitution said you actually have to count people. You cannot guess.

I have a business undergraduate degree, a business graduate degree as well. I have worked in the private sector before I came into government. It is far too important and constitutional that we have to count people. We cannot use statistical sampling. It can be part of a procedure to try to establish parameters, but you actually have to have real people to know how to assign block grants and dollars, how to assign congressional districts.

Furthermore, we seem to have lost, in the whole education debate, what our Founding Fathers intended and what we have done here. That is that local parents and local school boards are going to make the decisions on education, not some fountain of wisdom in Washington, where they do not know our kids names, where they do know the differences between the school districts. We cannot micromanage decisions here in Washington.

For the past number of days we have been in session here, we have been

waiting to try to get a budget agreement. We have known for months what the final things were going to be that were going to be negotiated. But we have not had those meetings. The President has not been engaged. We have not seen the White House engaged. They have had lots of other matters on their mind. But one of the fundamental questions that we have to ask about this administration in general is, are they focused on the task at hand?

The President has traveled 153 days this year, 32 on vacation, 57 for fundraisers. He has only held two cabinet meetings. Those cabinet meetings, the focus was, well, let us just say the focus of the two cabinet meetings was not on the pending crisis at hand and on the budget debate.

I want to go through, while we are here trying to keep the government open, while we are here trying to negotiate the final settlement, this is what the President did today.

At 2:45, he made a statement which I saw on the south lawn, saying we need to get down to business. We need to get an agreement. Then he boarded the helicopter to get over to Andrews Air Force base. At 4:55 he landed on Wall Street. A 5:05 he boarded a motorcade and departed the Wall Street landing zone en route to the Waldorf Astoria Hotel, Park Avenue, East 50th Street, New York. At 5:15 he arrives at the Waldorf Astoria hotel and proceeds to a private event. At 5:55 he greets a reception in honor of New York gubernatorial candidate Peter Vallone at the Waldorf Astoria still up on Park Avenue. At 6:45 he boards a motorcade and departs the hotel en route to the Hilton New York Towers, 6th Avenue and West 53rd Street. At 7:30 he greets Democratic Senate Campaign Committee reception in honor of the Democratic senatorial candidate and Congressman CHARLES SCHUMER of New York at the Hilton Tower, by the way, a member of the Committee on the Judiciary that is supposed to be neutral in this, potentially a member of the jury that will sit on the President, basically jury tampering. At 8:15 he concludes remarks and proceeds to the motorcade. At 8:30 he arrives at the Sheraton New York Hotel and Towers in New York. This is while we are supposed to be negotiating the budget. Where is he? At 8:35 greets the first gala benefit for the GMP charitable foundation for cancer research. At 9:25 he boards the motorcade and departs the Sheraton Hotel and Towers en route to a private residence. At 9:35 he arrives at the private residence Manhattan, proceeds inside to private event. A 10:15 he greets the Democratic Senate Campaign Committee reception in honor of of Congressman CHARLES SCHUMER, a private residence in Manhattan. At 11:55 he arrives at Kennedy International Airport, boards Air Force One. At 12:10 he leaves for Andrews, arrives at 1:05. At 1:20 departs for the White House, at 1:30 lands.

Where is the Vice President? The Vice President left this morning to go down to Palm Beach, Florida because the President cancelled his fund-raiser at Palm Beach, Florida so the Vice President went down there.

Where is the First Lady? She has no direct line of responsibility here but she is usually involved in a lot of discussions, particularly has been very outspoken on social issues. She is over in Bulgaria and the Czech Republic.

But supposedly we are a do-nothing Congress. Supposedly we are the ones holding up everything. I would suggest that if we are indeed in a crisis in our government and if we are on the border, borderline of a government shutdown, the least the President could do is stay in town and talk. Maybe we should have been doing this in the summer, during the August break, since we knew that the final issues were going to be education funding, pro-life concerns, IMF, emergency spending on year 2000 computers, and the farm crisis. We knew that. There is no shock here. We have known this for months.

But everybody has been so preoccupied with other things that they have not sat down and dealt with it. Now that we are down here, we are in extra days. We are trying to negotiate the final budget. The appropriations bills are over there. The House and Senate leaders are negotiating. In fact, some of what they have been negotiating on the drug issue, for example, they worked out with General McCaffrey, the White House drifts in and says, oh, by the way, he does not speak for us. Well, if your staff cannot speak for you, if the people you appoint cannot speak for you, stay in town. Do not go trotting around to the Waldorf Astoria for candidates who indeed actually sit on the Committee on the Judiciary. Do not go trotting over to the Hilton and into private receptions raising money when we are supposed to be trying to figure out how do the people's business.

THE BUDGET PROCESS

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

Mr. MINGE. Mr. Speaker, I think it is somewhat disingenuous to blame the White House for the failure of the leadership in Congress to move the appropriations and the budget process on a timely basis.

I also note with some interest that even the information that was presented in the well a minute ago is inaccurate. I happened to see Vice President GORE in Minneapolis today. He was not in Florida.

I think the rest of the analysis is similarly flawed.

We are struggling to close the 105th Congress and the problem is that the congressional leadership has failed to move the budget and appropriations legislation on a timely basis. Normally, according to the legislation that we adopted to impose upon ourselves so that there is some structure, rigor and discipline in the budget process, we would have completed a concurrent budget resolution by April 15. Here it is, October 12, almost six months later, and we do not have a concurrent budget resolution. We do not have a concurrent budget resolution.

This is symptomatic of the problem that we face in the 105th Congress. The House of Representatives passed a budget resolution. The Senate passed a budget resolution. But the leadership in the House and the Senate, both in the same political party, have not been able to meet in the middle of the building and iron out the differences between the two chambers.

As a consequence, we are stalemated in the budget process for the first time in 24 years, the first time in 24 years. And the differences between the Republican leadership in the House and the Republican leadership in the Senate and the budget resolution process parallel the differences that we see in the appropriations bills, in the tax reduction effort and many other efforts.

How can the President be blamed because the leadership in the House and the Senate are unable to get together? How can the President be blamed when October 1 arrives and most of the appropriations bills have not even been passed in Congress? It is simply an allegation that I submit that is unfounded.

What we need to do in this body is look at the rules that we have that govern our procedures on the budget and abide by them. It is as simple as that. We expect local governments, State governments, the United Nations to have a budget. People rail in this body about the lack of fiscal discipline at the United Nations. They talk about the need for reform at the International Monetary Fund, the World Bank, and then we have numerous limitations on what State and local government can do with Federal funds because we do not trust them to be responsible in developing a budget. But here we sit in Congress and we are hypocrites because we have not adopted a concurrent budget resolution.

The appropriations bills, which I mentioned before, are really supposed to reflect what is in this concurrent budget resolution and move through Congress so that they are completed in the summer. That means they are presented to the President in the summer. If there is disagreement, there can be a veto or there can be negotiations in the summer.

Nothing was completed in the summer. It was deferred. It was delayed.

Here we are October 12, the fiscal year started October 1, the 1998–1999 Federal fiscal year, October 1 from 1998 to September 30 of 1999. These appropriations bills were not available for planning at the Federal agencies. They were not available for negotiations with the White House or if there was going to be a veto, a veto at the White House and then negotiations.

So I submit, Mr. Speaker, that until we have the discipline within our body to do what is right in terms of a process on a timely basis, that we cannot expect the American people to respect our budget process, and certainly we cannot blame the White House for its lack of leadership on the budget issues and the appropriations bills. That leadership rests in this building, and we have not had that leadership.

WASTEFUL GOVERNMENT SPENDING

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

Mr. CUNNINGHAM. Mr. Speaker, talk about the President's leadership. He has only had two cabinet meetings in this Congress. But yet he has had over 80 fund-raisers in different areas raising millions of dollars each time. He was scheduled to go to Florida while we are sitting here working.

But that is not what I am here to talk about, Mr. Speaker. I wanted to reiterate what the previous speaker said.

I want to point out some areas where there is wasteful government and the difference between my colleagues on the other side that believe that government can do things better and on the Republican side and some Democrats feel that the people can do more with their own money.

Any time you send dollars to Washington, D.C., Mr. Speaker, about half of it is wasted. In welfare reform, less than 50 cents on the dollar gets back down to welfare. In education, less than 50 cents on the dollar gets down to the classroom because of the bureaucracies. Let me go through to be specific.

In the previous Congress, I was chairman of a subcommittee on education, K through 12 education, basically. There was a direct lending program, a government program to where student loans emanated out of the government.

The GAO did a study and in their report said that it cost, this was capped at 10 percent, only 10 percent of government loans. It cost a billion dollars annually, billion, not million, to run the program. It cost 5 million to collect it, because the government did not have the agencies to go out and collect it. So what we wanted to do is privatize it and cut those losses.

□ 2015

We did that.

In the balanced budget, the President wanted $3 billion for a new literacy program. California is 50th in literacy. Much to do, I think, because we have a lot of immigrants that come to California and the border States. But it was 50th in literacy. So when the President announced $3 billion for a new literacy program, it sounded pretty good, until we took a look.

There are 14 literacy programs in the Department of Education. Fourteen of them. What is wrong with taking one or two of those, Mr. Speaker? And when we have an authorization, we may authorize this much, but when it comes time for the dollars we may only authorize and appropriate this many dollars? What is wrong with picking one or two of those and not just fully funding them but actually increasing them?

Title I is one of those that is underfunded by the Federal Government. We could get rid of the bureaucrats, because every one of those programs has bureaucrats that have a salary and retirement. That comes out of the education funds. They have a building here in Washington that we pay rent on. The paperwork that they generate takes dollars away from the classroom.

There are 760 Federal education programs, Mr. Speaker, which allow us to get less than 50 cents on a dollar down to the classroom. What we want to do is get 90 or 95 percent of the dollars down to the classroom so that the teachers, the parents, the community and the administrators can make the decisions for their children instead of the bureaucrats here in Washington, D.C.

I had a hearing and we had eight different areas testifying. They all had the greatest programs since sliced bread. At the end of the hearing I asked which of them had any one of the other seven's programs. None of them. I said, that is the whole idea. Everyone likes their own programs.

We want to give them each a block grant, instead of mandating all the other seven programs in all the other districts, in which there are only minuscule dollars then to run the programs that they like. We could give them a block grant, and they could pick the program that is good for them, because Wisconsin may be a lot different than San Diego, California, or Hoboken, or wherever it happens to be.

Washington, D.C. My colleagues talk about school construction. Washington has some of the worst schools in this Nation. Over 70 percent of the children graduate functionally illiterate. The school houses were falling apart; their roofs caving in. School was canceled. Fire codes were not met. Schools did not start timely last year because of construction. The average age is over 60 years.

We wanted to waive Davis-Bacon requirements, which is the prevailing wage or union wage, to construct those schools. And my colleagues said, oh, they are for the children.

Well, we could have saved $24 million to build new schools in D.C. on that limited budget, because it cost 35 percent, Mr. Speaker, by going to union wage. We could have saved $24 million that would have gone to build those Washington, D.C., schools and repair those roofs. But did our colleagues choose the children? No, they chose their precious union, because it finances their campaigns. Watch the media if anyone has any doubt about that.

Mr. Speaker, we had the Individuals with Disabilities Act; special education. It had never been fully funded, and the Republicans funded that. The gentleman from Pennsylvania (Mr. GOODLING), the chairman of the Committee on Education and the Workforce, and I worked and put the two factions of the schools and the parents together, with no food or water, until they came out of the room and, finally, we came up with something fairly good. There are still problems, but we funded it up toward the 40 percent level.

Impact aid. The President totally cut out impact aid, education aid for military and Indian reservations.

We have done a lot, Mr. Speaker.

FUNDING EDUCATION IN AMERICA

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

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise this evening to join the chorus of those who to want discuss education.

It is interesting, we have had a lot of discussion from the White House, we have had a lot of criticism from Democrats about the process that we are going through on education. Is it political rhetoric? Is it a serious commitment to helping our local schools across America? That is the question I want to ask, Mr. Speaker.

We have those who want to start school construction programs in the Federal Government.

First, I would like to state that Federal money is not simple to use. I come from a rural part of Pennsylvania, where many school districts obtain very few Federal dollars because they need consultants, they need people who understand the Federal programs, and they have to work for months and sometimes years to get into the system and figure out the language the bureaucrats in their State capital want and the bureaucrats in Washington demand. So most small rural school districts do not receive much Federal money because they do not have consultants, they do not have grantsmen,

they do not have the people that speak the right language that bureaucrats understand.

Now we are going to Federalize school construction. We have 15,600 schools across America, approximately. The school construction program proposed by the President will take half the money and will give it to 100 urban poor schools. That leaves 15,500 some school districts with no funding. Now they will have a chance at the other half, but urban poor districts are not prohibited from going after that.

And this is a program for all of America? I do not think so. This is a program to go to President Clinton's base in the urban parts of America.

Now urban poor school districts have problems, but so do rural poor school districts, and they should have an equal shot. The construction program that has been designed by the President will not be a program that will help many schools in this country. The vast majority of the schools will never see a dollar. And those that choose to use this will lengthen the process of constructing schools by a year or two.

I have never seen a Federal program that even worked the first year. Last year, we had the technology program, had a half billion dollars in it. They have spent less than 100 million so far, and the year is over. Because Federal bureaucrats cannot make programs work in 1 year's time.

This will delay construction in America. This will make it more complicated to construct schools in America. It will make it more costly to construct schools in America because of the Federal bureaucracies that will have to be met, and Davis-Bacon, which will raise the cost of construction itself.

Then we have the program of teachers in the classroom, 100,000 teachers. That is a good cause. I think most of us would like to see 100,000 additional teachers. Probably 40 or 50 school districts in America will receive some kind of grant to do that or maybe 100, at the most, or 150. But that leaves 15,400 or 15,500 school districts with no change. Should we not have programs that get out equally across America where the need is, whether it is urban or whether it is rural or whether it is suburban, if there are school districts in trouble?

We can do that. We could expand the loan forgiveness program and get teachers into low income rural and urban shortage areas, and we could do that overnight. We could fund special ed, would get money into every school district. The ones that would get the most would be those who have the most poor students, the most students that need special education, and we would have the money right where it is most needed. The money they could free up on their own they could use to hire more teachers; they could use to fix their schools.

Vocational education, we have flat-funded vocational technical education year after year. This President again flat-funded it this year, or recommended flat funding. We are passing legislation to allow more immigrants to fill the technology jobs because we do not have an educational system that is training them, and it all starts in vocational education.

Most recently, we passed in the House, it did not get action in the Senate yet, a Dollars to the Classroom program that combines 31 programs and puts the money directly back into school districts. That frees up $700 million to $800 million without raising taxes because it does away with Federal bureaucrats, it does away with State bureaucrats, and it puts the money in the classroom where they can hire teachers or where they can improve the classroom.

Mr. Speaker, I believe the President's goal to help education is honorable, but I think the direction he has taken is election year politics because it is a new program that he can put his name on.

I want to say, new Federal programs do not work; 1999 will not see a school constructed, 1999 will not see more teachers in the classroom, because these programs cannot work in one year.

Mr. Speaker, I believe if we are going to increase funding for education I would support that. Let us fund vocational education. Let us fund special education. Let us fund loan forgiveness for low income rural and urban shortage areas.

Mr. Speaker, it is time to get the money out where it can work, not in some new ideas created by the White House that will not work and will not help our schools across America. It will only help a few.

CREATING NEW OLD PROGRAMS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 60 minutes as the designee of the majority leader.

Mr. GOODLING. Mr. Speaker, during the morning hour this morning, I asked the question, why all of the political rhetoric in the last week about education?

Make no mistake, everyone back home knows it is political rhetoric. So why all of the political rhetoric on education in the last week?

There were those who said we need a day's debate on education. The 105th Congress, the real education record, we have had 30 days of debate on the Floor of the House about education, passed 25 major accomplishments in the area of education and job training. So why all the rhetoric?

I think there are four reasons probably. First, it is a diversionary tactic. Now, I suppose I can understand that, divert the attention from anything else, but I hate to see children used as part of that diversionary tactic.

Secondly, of course, the polls say education is a sexy issue, and so that is the thing we should talk about: education. Now, I hope my colleagues are very careful, because those very same polls say that we, the American people, distrust most of all the Federal Government's involvement in elementary-secondary education.

The American public distrusts the Federal Government's involvement in elementary-secondary education. They also distrust the States' involvement. They believe that their local elected officials, their school board members, their superintendents, their teachers, their principals and their parents know best on the local level how to bring about reform so that all will have a quality elementary-secondary education.

Then I think there is a third reason. I have always suspected from day one that this administration wants to micromanage elementary-secondary education, micromanage from D.C. It has never worked in the past, will not work now, will not work in the future, but it is certainly a goal and, again, the American public does not want that micromanagement of their elementary-secondary schools from Washington, D.C.

Fourth, and probably the major reason, pride of authorship. Every president wants a legacy and every president recently seems to want that legacy to be in the area of education. So new old programs have to be created. I say new old programs because most every program is on the book already. Just give it a new title, a new name, and somehow or another it is yours.

As I said to the White House last week, it does not matter who gets credit, as long as we are trying to provide a quality education for all students.

Let me give a good example of how all of the rhetoric about school maintenance and school building, all the rhetoric about 100,000 new teachers, can be solved by using an existing program. If someone really believes there is an elementary teacher shortage, they apparently do not spend very much time studying statistics.

There are about 150,000 elementary teachers now certified who cannot find a teaching job, and they are working in department stores, fast food restaurants, offices. In my district, depending on the school district, there are anywhere from 50 to 200 applicants for an elementary teaching job, for every opening.

□ 2030

So what is the problem? Well, the problem is that they will not go where

they are most needed, or, because of discipline problems, they give up after a short while. So in the higher education bill we did something about that. We said we will give you some loan forgiveness if you will go to center-city and teach, if you will go to rural America and teach.

I do not know how to deal with the discipline problem from the Federal level. I suppose we could send the toughest Marine we have, one to every classroom. That would not be of any value whatsoever, because they would not be allowed to discipline anyway, so it would be a waste of money.

You see, unless parents are going to discipline, there is nothing that can be done, because the public has said the school may not discipline. So I do not know how to solve that problem. But if you were to fully fund special education, let me just show you what it means in several districts.

In my district, the City of York has 49,000 people. Thirty years ago the former majority mandated, mandated, 100 percent of everything that a local school district must do in the area of special education. One hundred percent. And they were very generous. They said however, we will not send you 100 percent of the funds to do that. What they said is, we will send you 40 percent of the excess cost, 40 percent of what it costs more to educate a special needs youngster than it does to educate a regular student. Forty percent of that excess cost.

Now, in the City of York, 49,000 people, they spend $6 million on special education; $6 million on a 100 percent mandate from the Federal level. They have to raise almost $4 million of that locally, a very difficult chore if you realize the tax base they have to work with.

If we would fund the 40 percent that was promised 30 years ago, they would have more than $1 million extra every year, to reduce class size, to hire extra teachers if they need extra teachers, to repair buildings, to do everything that somebody else says we need some special program in order to do that.

Let me give you a couple of others. The special school district of St. Louis, they spend $170 million each year to fund the 100 percent mandate from Washington, D.C. for special education. $170 million. They have to raise $127 million of that locally. Locally. If we were to send them their 40 percent that was promised, they would get an additional $24 million to maintain their buildings, to build new buildings, to reduce class size, to do everything that they believe is necessary to provide a quality education for all.

If you went to West Contra Costa Unified District in California, they spend $25 million every year in order to fund the 100 percent mandate from Washington, D.C. They have to raise $11 million of that locally. If we were to fund fully the promise that we made, they would get an extra $3.5 million.

The third Congressional District in Virginia would receive an additional $54 million each year. The Los Angeles unified school district, they spend $600 million every year for the 100 percent federally mandated special education program. They must raise $325 million of that locally. If we were to send the 40 percent that the former majority promised, they would get an extra $60 million every year. You see, the program is there. All you have to do is put your money where your mouth was when you did the mandate.

Now, for twenty years as I sat in the minority I pleaded with this Congress, do what you promised you would do, because it is the one issue that is driving a local school district up the wall. They do not know how to fund our mandate.

The gentleman from Michigan (Mr. KILDEE) was the only person from the other side when they were in a very large majority that I could get to be interested at all. In the last couple of years, the gentleman from Wisconsin (Mr. OBEY) has helped. But, boy, the school districts surely owe a big thank you to the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Illinois (Mr. PORTER). They put an additional $500 million in this year to help meet this mandate. They put in more than that last year. So it will be the first time that a local school district will be able to reduce their spending on special ed.

Now, what has happened in some of these areas where schools are falling down? Well, I read over the weekend, a school in New York, the principal said he has asked for eight consecutive years for money to maintain the school building, money to try to keep the school from crumbling. Not one penny came his way. I know what happens. In order to avoid a strike, I am sure that in negotiating, they gave all the maintenance money to prevent the strike.

He also said the principal before he came there had asked for many years the same question, please, where is the money to keep the school from falling down?

Well, I want to take a little time to review the speech that the President gave on Saturday, because it was a speech on education. I am sure it was very confusing to most Americans, because you would have thought, if you listened to that speech, we have not done anything in the Congress of the United States in relationship to education. And yet this Congress, more than any Congress in the history of this great Nation, has done more in the area to try to help provide quality education and quality training programs. So the President said we should be able to make real bipartisan progress on education. We have. We have.

Seven laws, they are law now, mostly in a bipartisan fashion. Higher Education Act, Special education, IDEA Act, Workforce Investment Act, Loan Forgiveness for New Teacher Act, quality teaching grants, emergency student loans, and, yes, a large bipartisan effort prohibiting Federal school tests.

We also have seven other bipartisan bills waiting for the President to sign. School nutrition, charter schools, Quality Head Start, and the administration was trying to eliminate the "quality" part. Well, there is no reason, if you are not going to have a quality education component in an early childhood program, obviously the child is not going to be successful when they get to first grade. They are not going to be reading-ready. Vocational education, community service block grant, $500 million more for special education. A reading excellence act, all waiting for the President's signature. Fourteen pieces of legislation.

We also sent eight more, A-plus Saving Account vetoed, Dollars to the Classroom Block Grant veto threat. We want to get the money down to the classroom. Teaching testing, vetoed. Prepaid college tuition plans, veto threat. D.C. scholarships, veto. Bilingual education reform, veto threat. A school construction plan, veto threat. Safe schools Anti-gun Provision, vetoed. We passed three more from the House that never made it through the Senate. Twenty-five different pieces of legislation, most in a bipartisan fashion, and some of them for the first time ever not only bipartisan, but bicameral.

So, Mr. President, we did make real bipartisan progress on education.

In the higher education bill, it will be the lowest interest rates that students will pay in 17 years. It will be the highest Pell Grants in the history of Pell Grants. And, yes, you mentioned quality? We have a provision in there that insists that teacher training institutions prepare quality teachers for the 21st Century.

Yes, a job training bill. Yes, a Headstart bill with quality. Yes, a vocational education bill. Yes, a nutrition bill. All, all, in a bipartisan fashion.

Our Nation needs 100,000 new highly qualified teachers to reduce class size in the early grade. I have already indicated there are 150,000 out there who cannot get a teaching job. So what did we do in the higher education bill? As I indicated, we tried to encourage them with loan reduction to go into center-city, to go into rural America, where there is that need.

Yes, in special education, as I indicated, if they got their 40 percent, they could do all of the teacher-pupil reduction that they want to. They could do all of the construction work and maintenance work that they want to. But the budget that came up from the administration cut special education. It

cut special education. The one place where everything that the administration wants they could do locally, if we only sent them that special ed money, and the administration's budget cut special education.

Now, I heard on the floor from one gentleman that because their state is growing so rapidly, we really should be in there at the Federal level, getting money for teachers, money for classrooms. Guess what? Where do you think his growth is coming from? He happens to be in a right-to-work state. His people are coming from my state. My good jobs in a highly organized labor state are going to his right-to-work state.

Now, if you carry that logic to conclusion, it seems to me he should, his state, should be sending money to my state because he is taking my tax base.

A gentlewoman said she needs money again for schools and for class size reduction. I would love to have her county, her one county in my district, the highest income possibly in the United States. So, again, if you follow that to its logical conclusion, she should be sending me money, because I do not have that kind of wealth in my district.

The budget should also bring cutting edge technology to the classroom. For two years the administration has not used one penny from the trust fund to do just that. What they did manage to do is allow telephone companies to put a surtax on your long distance telephone bills. That was not part of the negotiation.

Then also we are told that we should have child literacy programs so every child will be able to read well and independently by the end of third grade. Too late. Too late. Our literacy bill that we have ready for you to sign, Mr. President, will make sure that they are ready to read and are reading in first grade. Obviously if they come to school not reading ready, then you know the end result: They either will fail first grade, and it was not the child who failed, it was the adults who failed the child, or they will be socially promoted, which will be a disaster and bring about not a physical drop out, but probably by fourth, fifth grade, a dropout in one sense of the word. So our bill does not wait until third grade. We say, they have to be reading-ready.

□ 2045

Mr. Speaker, if all of the grade programs of the 1960s would have worked the way people thought they would work, we would not have a lot of students who are in fourth grade and cannot read at a fourth grade level. We would not have a lot of students who graduate from high school that do poorly in math and science. Well, we have to admit, they did not work. And part of the problem was there was not any strength whatsoever in the education part of those early childhood programs; and, for many years, quality was missing. Baby sitting was available, child care was available, but the important part, the education component, was missed.

So, again, the American people do not want the United States Government to micromanage elementary and secondary schools. They do not want them to mandate to their elementary and secondary schools. They do not want them to interfere with the operation of their elementary and secondary schools. They realize that one cannot bring quality from top down. We have to build it from bottom up. And they know that the local parents, the local teachers, the local students and the local elected officials know far better than Washington, D.C., what is in the best interests if we want to really have quality education in their particular district. One size fits all from Washington, D.C., has never worked, will never work.

And, again, I want to emphasize the tremendous effort made in this Congress to try to do what we could do to give the local schools an opportunity to improve their own school system.

One of the things the gentleman in the chair brought to this Congress was the whole idea of getting dollars down to the classroom. Getting them beyond the bureaucracy in Washington, getting them beyond equally bureaucratic State governments, down to the classroom. That is where we make the difference, and that is what we wanted to do. And what do we get for our effort? A veto threat.

Well, that is the only way it will work. This administration has to understand, we build from the bottom up. The programs are there. We do not need to take old programs and give them a new name. I made it very clear to the White House last year, the year before and this year that if you want to be a hero, if you really want to be remembered in the area of education, do something to help us fund the 40 percent of excess costs for special education; and the local district will then be able to take their money to provide a quality education for all students.

The SPEAKER pro tempore (Mr. PITTS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Iowa (Mr. LEACH) is recognized for the remainder of the majority leader's hour, approximately 35 minutes.

THE FAILURE OF LONG-TERM CAPITAL MANAGEMENT: A PRELIMINARY ASSESSMENT

The SPEAKER pro tempore. The gentleman from Iowa (Mr. LEACH) is recognized for the remainder of the Majority Leader's hour, approximately 35 minutes.

Mr. LEACH. Mr. Speaker, I rise to discuss one of the most serious and symbolic financial events of the decade: the failure and government-led rescue of America's largest and most heavily leveraged hedge fund, Long-Term Capital Management.

Dubiously enshrined in establishment economic thinking is the too-big-to-fail doctrine, the notion that government will intervene to save a bank in trouble if its collapse would cause major harm to the economy.

Last month, with the rescue of Long-Term Capital Management, a corollary appears to be in the making that "some financial firms are too big to liquidate too quickly." The application of the "too-big" doctrine for the first time beyond a depository institution raises troubling public policy questions.

From a social perspective, it is not clear that Long-Term Capital, or any other hedge fund, serves a sufficient social purpose to warrant government-directed protection. In one view, hedge funds provide liquidity and stability in financial markets, allowing economies to finance infrastructure and enterprises necessary to modernize. In another view, hedge funds have a raison d'etre: They seem to be run-amok, casino-like enterprises, driven by greed with leverage bets of such huge proportions that they can control global capital markets and even jeopardize economic viability of individual sovereign States.

In this case, the country's most sophisticated banking institutions provided loans to an institution that shielded its operations in secrecy, denying lenders and their regulators data about its positions or other borrowings. The rationale was that sharing information was competitively disadvantageous to the fund. Lenders to the fund, in effect, became responsible for a kind of blind-eyed complicity and speculative actions that might in some cases prove destabilizing for the very financial system upon which banks and the public rely.

The envy of its peers, Long-Term Capital was the very paragon of modern financial engineering, with two Nobel Prize winners among its partners and Wall Street's most celebrated trader as its CEO. The fact that it failed does not mean that the science of risk management is wrong-headed; just that it is still an imperfect art in a world where the past holds lessons but provides few reliable precedents.

Hedge funds were so named because their managers tried to reduce with offsetting transactions the risks they take with investor funds. Today, the name has an ironic ring. As hedge funds have grown in the last few years, so has the venturesome nature of their investments in pursuit of higher returns. The industry numbers between 3,000 and 5,500 funds, with somewhere between $200 billion and $300 billion in investment capital, supporting book

assets in the order of $2 trillion. About a third of the funds are highly leveraged; in Long-Term Capital's case, about 27-to-1 when its books were solid; more so when difficulties emerged.

Large financial institutions make this leveraging possible, often with federally-insured funds. If taxpayers are to share in the risk, they or at least their protectors, bank, securities, and commodities regulators, ought to understand what stakes are involved. The profit motive is the most powerful disciplinarian of markets, but the United States Government is obligated to be on top of the issues.

There are points where politics and economics intersect; and when political institutions implode, as they have in Russia, economic consequences follow. The best and the brightest on Wall Street lost billions betting that Russia was too nuclear to fail. They did not grasp that it was too corrupt to succeed and that it did little good for the West to transfer resources to Russia's Central Bank if it simply recycled them to a private banking system which served as the money-laundering network for insiders.

No nation-state can prosper if it lacks a place where people can save their money with confidence and seek lending assistance with security. Russia, which is the landmass most similar to our own, has been kept back for most of this century because of the Big "C", Communism, and is now in a despairing state because of the little "c", corruption, which is likely to be more difficult to root out than Communism was in the first instance.

It is bewildering how, with all of the attention in recent months being given to forming a new global financial system architecture, no one is paying attention to universal values. Honesty must prevail over corruption, or no financial system will work. In fact, unless the point is made with regard to countries such as Russia that the problem is not that market economics are wanting but that corrupt market mechanisms are pervasive, the Russian people will never understand the lessons of the century. The old battleground in world affairs was Communism versus Capitalism; the new one contrasts corrupted market economies versus noncorrupted ones.

What the Russian people, and those of so many developing countries, deserve is a chance to practice free market economics under, not above, the rule of law. If attention is paid above all to establishing honest, competitive institutions of governments and finance, virtually everything else will fall into place.

From the public's perspective, it must be understood that politicians can be dangerous and that their most counterproductive weapon is protectionism. This is particularly true in finance. Any country that protects itself from foreign competition and finance injures itself and, in effect, emboldens corruption. Unilateral decisions or international agreements to open markets that are closed to Western-system financial institutions provide the best chance for corrupt systems to reform themselves. Their public will, if given a chance, lead their leaders by saving where they are best protected and borrowing where they get the most competitive terms.

In Long-Term Capital's case, the underestimation of the role of corruption in Russia and other emerging economies led to an underestimation of the American economy and legal system.

The mathematical model Long-Term Capital followed apparently assumed market tranquility. If certain bond yields relative to Treasuries widened, it predicted that market forces would correct the differential and yields would inevitably begin to converge. As spreads began to widen earlier this year, the fund bought long corporate and foreign bonds at the same time it sold short Treasury instruments. But when a flight to quality escalated, the spreads widened, rather than narrowed, and Long-Term Capital found itself on the losing end of both sides of key investment equations.

At issue is not just a judgment of the moment but the problem of developing with confidence risk models for adverse times, especially when the vicissitudes of politics and human nature conspire with market forces.

At issue also is the possibility that the failure of Long-Term Capital reflects the bringing home to the United States the economic problems of the rest of the world. As Wall Street firms have begun to move to protect themselves in recent weeks by pulling in credit lines and dumping less solid investments, a crisis of confidence appears to be developing. The impending credit crunch requires a monetary response from the Fed, i.e., immediate attention to lowering interest rates and, perhaps, a shot of fiscal stimulus from Congress, preferably a tax cut of modest dimensions on the order of the $16 billion a year one that passed the House last month.

I was initially informed by a top Treasury official that there was a distinction between being informed and being consulted on the Long-Term Capital issue and that while Treasury had no disagreement with the judgment or the role of the Fed, Treasury's involvement could only be characterized as passively being informed of Fed concerns for the systemic implications of a fund failure in the economy.

Minutes prior to the October 1 Committee on Banking and Financial Services hearing on Long-Term Capital, I received a letter from Treasury Deputy Secretary Summers, which in amplification stated:

> We were informed of the developments affecting Long-Term Capital Management, and we were kept apprised of the progress of discussions among its creditors. We did not, however, participate in any of these discussions.

I was therefore surprised to learn in testimony from New York Federal Reserve Bank President William McDonough that he confirmed directly with Treasury Secretary Rubin on September 18 and that he was joined by Assistant Treasury Secretary Gary Gensler in discussions with Long-Term Capital's partners in Long-Term Capital's offices on September 20, the day prior to McDonough's decision to intervene in a role he analogized that played by J.P. Morgan in the panic of 1907. Given this circumstance, the "informed/consulted" distinction would appear to tilt to the "consulted" side.

While oversight of bank lending to Long-Term Capital Management and financial instrument trading within the firm does not appear to have been governmentally coordinated, its bailout was.

In retrospect, it is difficult not to be struck by the fact that the shrewdest in the hedge fund industry could commit such investment errors, that the most sophisticated in banking would give a blank check to others in an industry in which they considered themselves to be experts, and that the United States regulatory system could be so uncoordinated and so easily caught off guard.

□ 2100

The Fed and the Comptroller of the Currency, principally the Fed in this case, had responsibility for regulation of the banks which extended such large credit lines to Long-Term.

Questions exist as to how knowledgeable of loan extensions were the regulators. The principal agency with statutory authority over the fund's trading practices was the Commodity Futures Trading Commission, with which Long-Term Capital was registered as a commodity pool operator, and to which it was required to make periodic financial disclosures.

According to CFTC officials, the Commission has the power to examine the firm's trading positions, yet apparently it did not do so, even after Long-Term Capital reported at the end of 1997 that its assets included nearly $3 million in swaps, forwards, futures, options, and warrants, and its liabilities, $6.4 billion in similar instruments, or that it had leveraged $4.7 billion in partners' capital into investments of $129 billion.

While regulators appear to have egg on their face for the failure as well as the rescue of Long-Term Capital, risk-free regulation is not possible or necessarily appropriate. The economy could be as ill-served by financial institutions refusing to take risks as it would be by those taking too much.

But Congress cannot duck its oversight responsibility of those charged with supervision of these markets.

That is why 5 years ago I issued a 900-page report on the financial derivatives marketplace which included a series of 30 recommendations for regulatory guidance to constrain systemic risk in a market which I then described as "the new wild card in international finance." In this report, I noted that, "Historical experience is not always a guide to the future, especially when a relatively new market explodes in size" and when there are "unprecedented economic uncertainties."

Among the recommendations in the report, which became one of the benchmark assessments of how derivatives should and should not be regulated, were that bank regulatory agencies should discourage active involvement in derivatives markets by insured institutions unless management can convincingly demonstrate both sufficient capitalization and sophisticated technical abilities. Greater transparency and uniform disclosure standards were also recommended.

The troubles of Long-Term Capital presented the Fed with a dilemma. If it failed to act in the face of what is presumably deemed to be systemic risk, it would have been left open to charges that it abdicated leadership on a matter that might have affected the stability of markets around the world, and thus, the pocketbooks of millions of ordinary citizens.

By acting as it did, however, it preserved an institution that in a free market economy would normally have been allowed to fail. The Federal Reserve's decision to intervene in the Long-Term Capital situation underscores that the Fed operates under two basic pinions: that low inflation is always a friend, and that instability is always the enemy.

Clearly, the Fed will go to great lengths to reduce the dangers of instability, as well as inflation. But the government's intrusion into our market economy can be justified only if it can be credibly shown that there is a clear and present danger to the financial system in Long-Term Capital's failure, and that there were no stabilizing alternatives, other credible bids on the table, or other approaches to ensure that a market-shaking unwinding did not occur.

In this case, another bid was on the table. According to Mr. McDonough, it was rejected by Long-Term Capital's management because it did not have the legal ability to accept it, although it had the ability to accept the alternative, which reportedly included a commitment to keep the management of Long-Term Capital intact.

Here it deserves noting that in the wings was not only a "Warren Buffett" in terms of an alternative bid, but a "Paul Volcker" or "Jerry Corrigan" in terms of a possible court-appointed bankruptcy trustee.

I stress the bankruptcy laws because, to the extent that another hedge fund of similar size or group of companies that, in combination, may be of comparable importance could get into trouble, the U.S. bankruptcy laws are designed to stabilize insolvent circumstances. Indeed, under the bankruptcy code, a trustee probably has more authority to proceed slowly than a reengineered company not protected by bankruptcy status.

With regard to a future government role in bankruptcies of hedge funds or other financial institutions, the Fed might want to think through the possibility of making process recommendations to bankruptcy courts. For instance, if a significant fund fails, the Fed should prepare to go to a court and recommend a given type of process, as well as consideration of particular types of or actual individuals who might be appropriate to serve as trustees for a failed fund.

If the problem relates to systemic concerns and the goal is an orderly unwinding of positions or orderly transfer of assets, the Fed is obligated to lend a perspective to the courts.

Given that almost any future potential failure of another fund will raise questions of whether it will be given like treatment as Long-Term Capital, the Fed or Treasury should also consider issuing public guidelines or commentary about their intent to rely on orderliness through bankruptcy statutes to assure markets that unfortunate problems will not become systemic liabilities.

In this regard, balance should be emphasized. Just as there may be systemic concerns for a too rapid unraveling of positions, there could be competitive and market concerns for too prolonged resolution of the problem.

It is a particular umbrage that the hedge fund bailed out under the Fed's leadership operate commodity pools organized as Cayman Islands entities. Implicit in this circumstance is the possibility that individuals who presumably sought to reduce their United States tax obligations through Caribbean shelters could find their assets protected with the help of a United States government agency.

To the degree doubt exists, because of the Cayman connection, whether U.S. bankruptcy laws could effectively have been applied in the Long-Term Capital situation, or whether actions might be brought in other jurisdictions, Long-Term Capital's problems underscore the legal risk issue. Prudent banks should have doubts about lending to institutions whose operations may not be within the full reach of the laws of the United States or other comparable legal systems.

While the goal of the Fed's intervention was to avert a short-term shock to the international economic system, it appears that a more serious long-term threat may be the result. Today we have a reconstituted fund that is co-owned by 14 of the world's largest financial institutions, from Travelers and Merrill Lynch to J.P. Morgan and the Union Bank of Switzerland.

In this regard, it should be understood that the coordinated government bailout approach which was undertaken may involve a tendency towards concentration with the new owners conjoined as a group having a greater impact on markets than in competition with one another. The Fed's unprecedented extension of the too-big-to-fail doctrine to a hedge fund does not insulate the fund and its new owners from the constraints of the Sherman and Clayton Acts.

Working as a cartel, those running Long-Term Capital potentially comprise the most powerful financial force in the history of the world, and could influence the well-being of Nation states for good or for naught, guided by the profit motive, rather than national interest standards.

This dilemma is reflected in the announcement the week after the Fed intervened by the Secretary of the Treasury that the United States government and international resources should be put in play to prop up certain foreign currencies. Most analysts assume the Treasury was particularly concerned that the Brazilian cruzeiro might be devalued. But to give a governmental imprimatur to the fund as it is now constituted could cause conflicts of interest not only among its owners, but with our own government. The possibility that taxpayer dollars might be pitted in the future against those of a firm the United States government helped rescue could be an expensive irony.

The antitrust laws are generally applied to concentration in a particular market sector, but the combination of many of the world's most sophisticated financial powerhouses in hedge fund activities is unprecedented in significance. Such a combination, if allowed to stand, could enable these institutions to hold sway over whole economies. No central bank or finance ministry in the world could match the assets they could wield in currency markets.

Further complicating this collusion problem is the report that half-a-dozen or more government-owned banks are or have been strategic investors in Long-Term Capital.

The possibility that fund managers might receive insider information from their own investors who represent foreign governments; or that any government would think it appropriate to invest public monies in a speculative hedge fund; or that our government might be put in the position of having to decide whether to rescue a fund

which, if liquidated, might embarrass a government with which we interrelate on many issues, is bizarre and untenable.

As powerful as they are, Long-Term Capital's new owners are confronted with a legal Catch-22. If they do not actively manage the fund, they could be sued for lack of prudential stewardship. If they do actively manage the fund, they could be sued for collusion.

In testimony before the Congress last week, Fed officials said firewalls would be established to separate the fund's oversight committee managers from their home offices. However, firewalls, no matter how high, are particularly vulnerable when losses mount. If hedged positions improve, legal liabilities could be bedeviling.

If, for instance, Long-Term Capital and any of its new investors were to take a position that would prove profitable, presumably someone on the unprofitable side of such a position might sue on collusion grounds. Or if it were to pay back a creditor partner and not a creditor non-partner, questions of equity could be raised.

The Long-Term Capital saga is fraught with ironies related to moral authority as well as moral hazard. The Fed's intervention comes at a time when our government has been preaching to foreign governments, particularly Asian ones, that the way to modernize is to let weak institutions fail and to rely on market mechanisms, rather than insider bailouts.

We have also encouraged developing countries to establish bankruptcy arrangements to cushion the shock of failures, and, where possible, fairly distribute the assets of bankrupt institutions. Now, as the country with the most sophisticated markets, bankruptcy laws, and legal precedents, we appear to have abandoned the model we urge others to follow.

Worse yet, the Federal government appears to have played a role in precipitating a bailout offer that was more advantageous to the failed management than that which the free market offered. Warren Buffett may be fortunate to have had his bid for Long-Term Capital turned down in favor of the government-coordinated effort. Given reports of further erosion of Long-Term Capital capital, the new owners and the government, on the other hand, may be embarrassed if stabilization of the fund requires another rescue.

It will be months before proper perspective can be applied to this unique circumstance, but the principal lesson would appear to be that the Fed should rely more extensively on market mechanisms and America's sophisticated bankruptcy laws. Above all, the public should be assured that the government will not subsidize insider bailouts, or protect those who make investment errors. The too-big doctrine is simply too prone to fail.

TRIBUTE TO JOSEPH P. KENNEDY, II, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. PITTS). Under the Speaker's announced policy of January 7, 1997, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 60 minutes as the designee of the minority leader.

Mr. MOAKLEY. Mr. Speaker, I rise to pay special tribute to my colleague and my very dear friend, the gentleman from the Eighth Congressional District, the gentleman from Massachusetts (Mr. JOE KENNEDY).

When JOE was first elected to the 100th Congress back in 1986, he had a lot to live up to, and he has done so with Irish passion and a devotion to those less fortunate that would have made his father very proud.

First, JOE had to confront enormous expectations because of who he was. As the oldest son of the late Senator Robert Kennedy, as the nephew of Senator EDWARD KENNEDY, and the nephew of President John F. Kennedy, he was expected to do great things.

If those expectations were not already high enough, JOE had the unenviable task of having to follow on the greatest congressman and certainly one of the greatest Speakers this Nation has seen in many years, my dear friend and mentor, Thomas "Tip" O'Neill. I can only imagine the pressure JOE felt as he raised his right hand to take the oath of office just 12 years ago.

But today it is my great pleasure to say that without a doubt, JOE has not only met those high expectations, but he has also exceeded them. A lot of Members in Congress lose some of their fire after a few years here, but not JOE KENNEDY. He is just as passionate about helping people and making this country a better place today as he was just a dozen years ago.

From his first years in Congress, JOE KENNEDY has been a friend, an advocate, and a noble spokesman for those citizens in our society who are often forgotten. There has not been a vote on the floor of this House in which the poor of our country have not been able to look to him for leadership and for compassion.

JOE has championed the rights of people looking to realize the American dream and obtain affordable housing. For those who cannot afford to buy a house, he made sure that safe, quality public housing was available.

JOE has fought mightily to ensure that everyone is treated the same when they apply for a mortgage or try to get insurance, regardless of the color of their skin or the red line that used to be drawn around their neighborhood.

□ 2115

He has fought for the 4.4 million elderly in the working families who depend on fuel assistance so that they can heat their homes and they do not have to go without food. And I think it is very ironic that on the eve of his departure from this Congress, the Republican leadership has decided to eliminate the LIHEAP program, the program that JOE KENNEDY has fought so hard for.

JOE has been a very true friend of American veterans, men and women in uniform always knew that they could go to him, express their needs, and he would share their concerns. They learned early in his tenure that he would look out for them and he has not disappointed them once.

JOE has led the fight to close the infamous School of the Americas, which has been linked to countless human rights violations in the Western Hemisphere. While the school is still open for business, people all across this country have seen the atrocities that take place there because JOE KENNEDY spoke out.

JOE has fought on behalf of the people of Haiti who live in abject poverty just a few hundred miles off our shore. And even now, JOE is working to make sure that the people of the Dominican Republic get much-needed supplies to help rebuild after Hurricane Georges that just passed.

In Northern Ireland, the land of his ancestors, JOE worked tirelessly to bring people together to enjoy the peace and unity that they so richly deserve and that was very long overdue. Today, peace is a chance in Northern Ireland and JOE has as much a right to be proud of the Good Friday Agreement as anybody else.

JOE KENNEDY, you made your family proud. You have made Massachusetts proud. You have made your country proud. You have been an accomplished Member of this House, a respected colleague to people on both sides of the aisle, and a very dear friend of mine.

So good luck my friend, the United States Congress is a much better place because you served here, and this Congress will miss you.

Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. MCGOVERN) of the 3rd Congressional District, my former staffer.

Mr. MCGOVERN. Mr. Speaker, I thank the dean of our delegation, the gentleman from Massachusetts (Mr. MOAKLEY) for his very eloquent and passionate words on behalf of our friend, JOE KENNEDY.

This is both a sad and happy occasion for me as a freshman Member of the Massachusetts delegation. Sad because I regret the short time, only 2 years, that I have had the opportunity to work with JOE KENNEDY on behalf of our Commonwealth. Happy because I know he will be a powerful force for change in Massachusetts, galvanizing grassroots involvement on the important issues of the day.

And while there are many issues in which JOE KENNEDY has been a leader,

housing, Congressman MOAKLEY mentioned LIHEAP, veterans, human rights, democracy in Haiti, consumer rights, community-based development, and I could go on and on and on and many of my colleagues today will sing his praises on a lot of those issues. But I would like to speak about one issue near to my own heart in which JOE KENNEDY exercised extraordinary leadership and around which he helped build a national grassroots campaign. That issues involves the closing down of the School of the Americas.

Mr. Speaker, no one, literally no one was doing anything on this issue until JOE KENNEDY became involved. He heard the voices of families and individuals throughout Latin America who have lost loved one at the hands of U.S.-trained graduates of the School of the Americas and he decided to take a stand, and a stand against the School of the Americas.

I have personally felt the loss of friends murdered by School of the Americas graduates. The six Jesuit priests murdered in El Salvador in November 1989 were known to me. They were men who stood for peace, for justice, who fought so passionately against the senseless violence in El Salvador for so many years. These were priests who were outstanding leaders in El Salvador and who were my friends, with whom I met on so many occasions, who I thought offered hope to end the civil conflict in El Salvador.

Last November, I traveled to El Salvador with the gentleman from Massachusetts (Mr. MOAKLEY) to participate in events commemorating these Jesuit martyrs. We attended a people's mass held outdoors with thousands of Salvadorans gathered covering the hillsides. Congressman MOAKLEY and I, accompanied by the U.S. Ambassador, were escorted to our seats. There was a huge film on the screen accompanied by music. It was a film about the School of the Americas. Mr. Speaker, there, 10 or 15 feet high, was the face of JOE KENNEDY. It seems I had traveled thousands of miles to see the face of my friend from Massachusetts, who in El Salvador is seen as a voice for the voiceless.

I cannot say how proud I was to be associated with JOE KENNEDY, to be from Massachusetts, to see him up there talking about the values, talking about the issues that I care about, that Congressman MOAKLEY cares about, that so many people in this country care about.

So, I want to just say that my wife Lisa and I want to wish JOE and Beth all the best. JOE, I want to thank you for your service to this country. I want to thank you for being a good friend to me. I am proud that I had the opportunity to serve with you in this Congress, and I am most especially proud that you are my friend. So thank you very much.

Mr. MOAKLEY. Mr. Speaker, at this time I would like to yield to the gentleman from Massachusetts (Mr. TIERNEY) representing the 6th District, the outstanding freshman.

Mr. TIERNEY. Mr. Speaker, I rise today to bid farewell to one of the most ardent champions of the less fortunate, my friend and colleague, JOE KENNEDY.

Mr. Speaker, whether it is fighting to close the terrorist School of the Americas, or improving low income housing, or assuring that America's poorest families receive low-cost heating through the LIHEAP program, JOE continued his father's legacy by speaking for those without a voice and has left his own incredible mark on history.

JOE KENNEDY has dedicated his tenure in Congress to improving the lives of the less fortunate and the quality of living for today's consumers. When studies indicated that credit unions had a poor record of lending to minorities and low-income members, JOE took steps to ensure that credit unions adhered to the same fairness regulations as banks and savings institutions.

When the American Medical Association reported the extent of heavy binge drinking among young people, JOE KENNEDY introduced legislation to provide incentives for colleges and universities to develop and implement alcohol abuse prevention programs and would establish new requirements for alcohol advertising that targets young audiences.

When more and more Americans became burdened by credit card debt and sky-high interest rates charged by creditors, JOE KENNEDY introduced legislation which would protect consumers from the unreasonable practices of creditors that result in higher fees and interest rates for consumers. In fact, one of the first opportunities I had as a congressman was to join JOE in a forum in Boston dealing with that very issue, and he has been a leader on that and so many other things.

I could go on, but I am sure there are others here tonight who will have much more to say, as did the gentlemen from Massachusetts (Mr. MCGOVERN) and (Mr. MOAKLEY).

We can take faith knowing that JOE will continue his work on behalf of low-income families because he is going to focus his efforts on the Citizen's Energy Corporation. I know that under JOE's guidance, many low-income and elderly individuals will not have to face another brutal New England winter without low-cost heating.

The Massachusetts delegation in the House of Representatives is losing one of its most valued colleagues, Mr. Speaker. One of its strongest advocates for low-income and elderly individuals, and for all things fair in this country.

When people talk about values, whether they are out in their districts or here in Congress, they need only look at the principles and the causes that JOE KENNEDY has stood up for time and time again. It makes us all proud, Mr. Speaker, to be from Massachusetts. It makes us proud to be a friend of JOE KENNEDY. It makes us proud to have him campaign with us and for us, on occasions, to speak on the floor for the things that we believe in.

Mr. Speaker, if I can address the gentleman from Massachusetts directly for a moment, against our usual decorum, JOE, I wish you the best in your future endeavors, you and Beth, and I speak for everyone in this Chamber when I say that you will be sadly missed.

Mr. Speaker, to paraphrase our Irish ancestors, "May the road rise to meet you, may the wind always be at your back. . .and until we meet again, may God hold you in the palm of his hand."

Mr. MOAKLEY. Mr. Speaker, at this time I yield to the gentleman from Massachusetts (Mr. MARKEY), the next Dean of the Massachusetts delegation, the outstanding Congressman from the 7th District, a master in telecommunications and other great subjects.

Mr. MARKEY. Mr. Speaker, I thank the gentleman from South Boston, Massachusetts (Mr. MOAKLEY) very much for holding this special order tonight. I anticipate being the Dean of the Massachusetts delegation sometime very deep into the 21st century. The incredible work that the Massachusetts medical community has done on the gentleman from South Boston makes it highly unlikely that I will see the post of Dean of our delegation any time before I am a very old man.

But, Mr. Speaker, by that time I think we all expect JOE KENNEDY to be back. Not back here in the House of Representatives, but he will be back. He will be governor. He will be Senator. Maybe he will be more, but he is going to be back. This is just a little break.

He is going to be able to see his two boys, seniors in high school, co-captains of their football team, every Saturday. He will be able to see them in their winter and spring sports. He will be able to get them on to their college curricula in the next several years. But he is far from finished in this business. It is just a little break.

We all wish we could take the break that JOE KENNEDY is taking right now. If the rest of us took a break for 4 years, we would be in oblivion. JOE KENNEDY will probably be more popular 4 years from now, because of what he will be able to do in the private sector, in community activities over the next several years. And in addition, he will be able to, as well, make sure that his boys and Beth have at least this one brief shining moment of 4 years where he will be in one place for that period of time.

Even as we debate over these final 4 or 5 days in Congress over whether or

not we are going to take care of schools in the poorest neighborhoods in America, something that JOE has been talking about the whole time that he has been here, there is another bill that is hanging around here which is a banking bill. A bill that is going to overhaul the entire banking and securities and insurance industries in our country.

Mr. Speaker, there is just one little sticking point which is that they do not want JOE KENNEDY's provision that ensures that these wealthiest of financial institutions reinvest in communities, the poor communities where the money has come from. It just really drives them crazy that JOE KENNEDY has so mastered the legislative process that he is almost single-handedly able to take on the most powerful financial interests in the world and frustrate them so that they cannot get what they want, and he understands that well and, in fact, supports it unless and until they always take care of the poorest in the poorest communities in the United States.

I think that is kind of a wonderful tribute to him right now. Oftentimes, people only receive credit in the political process by the legislation which they pass. But there is a bill which is dying right now, this financial services bill, because JOE KENNEDY does not think it does enough. We will pass a bill at some point, next year, the year after, the year after that. And when we do, for sure it will include the provision which JOE KENNEDY believes is indispensable to constructing a balanced and fair banking financial services system in this country and world. It is not just for the hedge fund investors who can pony up $5 million or $10 million a piece. It is also for the smallest and the poorest, the most ordinary people in our country. And he understands that, and he animates the debate here on the floor of Congress with those very specific values.

When we vote here on the floor, the Chamber is exactly as it was in 1858 when it was constructed, except a compromise that was cut with the Daughters of the American Revolution about 30 or 40 years ago which allows just for 15 minutes for all of our names to flash electronically up on the board. When the Members come in and they gather here on the floor, they scan the board to see where people are on any particular issue.

□ 2130

And a very large number of Members always check to see how JOE KENNEDY voted because they know that JOE KENNEDY is going to be voting for the poorest, for the most needy, for those who need help within our society. No joking, no kidding, that is what his vote stands for. Everybody knows that is what it stands for up there. No deals, no compromise, that is who he is.

And I think that is quite a legacy to leave, that after 12 years people know that that is what that vote stands for up there, even as he understands the complexities of the most sophisticated financial, manufacturing, industrial issues and industries in our country and in our globe.

So for me it has been an honor to serve with JOE over all of these years. He has been a very special presence here in the Congress, and I think that in the years to come the experience which he has gained here is going to further help not only the people of Massachusetts but this country and this world. We know not how that will manifest itself, except that it is inevitable that that day will arrive.

I thank you, JOE, and I wish the best for you and Beth and for your two boys, because you deserve it.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman very much.

The next gentleman I will introduce, when he first announced for office, a reporter grabbed me and said, another KENNEDY running for office. He said, what do you think about all those KENNEDYs in office. I said, there is not enough of them.

It is a great pleasure to introduce a Congressman who came in, son of a great father but, on his own, has made a name here in the Congress.

Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. PATRICK KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentleman very much, JOE MOAKLEY, my good friend, who is not only the dean of the Massachusetts delegation but the dean of the New England delegation.

I know when I think about what it is like to come here to the Congress and try to make it on to the right committees and always people say to me, you know, you have to go check with JOE MOAKLEY, but I was lucky, JOE, because I had some more advice than the average freshman when I came here to Congress. And you alluded to it when you talked about the fact that there was already a KENNEDY in Congress here and I was lucky to have JOE in Congress here when I came here, because when you were talking about JOE and the great expectations that he had to rise to when he was elected here to the Congress, and you really set it up very well, what he was up against when he first was elected, the notion that he was following in such a historic seat as the 8th congressional seat, that he was following the Speaker of the House, that he was following in my family's legacy of public service, it was a daunting task. But luckily for me, I had JOE to break the ice for me when I came to the Congress.

And JOE, when I got down here on the floor, he told me a few things to do and not to do, when I was looking out to start my career in the Congress. And JOE MOAKLEY, you were very kind to say that I am making it on my own here, but I can tell you that would have been a total accident if I had not had my cousin to be here in the Congress and to show me the way.

And JOE has certainly seen the way in this House. He basically said to me, I have seen how it is done in this place. Let me tell you, from the benefit of my experience, how to do it the right way. And he was selfless, as he is known to be by anyone who knows JOE and loves him.

I want to talk a little bit about what JOE is like as a person, because I think it is reflected in all the things that you mentioned, Mr. MOAKLEY, and my other colleagues in the House mentioned with respect to the issues that are dear to JOE's heart and the legacy that he leaves as a Member of this esteemed body.

As I was growing up, JOE was always someone who took me under his wing and always made sure that I was doing all right. I can tell you that might sound funny to people, but I never felt like I was in the groove, so to speak, because JOE came from a large family with lots of brothers and sisters, and my brother and sister were 6 and 7 years older than me.

I was not as close to them because of age as I was to many of my cousins who were his younger brothers and sisters. I can tell you I never felt out of step when I was with him because he always made me feel like I was just one more of his brothers and sisters. I can tell you whether it was sailing on race week or whether it was running up, after sailing in the Victura, to go catch some bluefish off of Cape Cod, JOE was always there to show me the way that he knew and he was always there to educate me and give me the benefit of his experience. That got him frustrated sometimes when I caught bigger bluefish than he did or when I managed to get a better place in the sailboat, but then he always knew that he was the one that had been my instructor, and he knew he had done well by giving me the best advice that anyone could give.

When I think about what it was like for, I think, all members of my family growing up with the last name KENNEDY and to think about what it was, what it is like to live up to my family's legacy of public service, I think it is probably easier for me to think about the history that is written by my family, its historic struggle for the disenfranchised, and I think more often than not that legacy was written by JOE's father, who brought to politics a personal touch that everybody that I meet in my travels around the country who talks to me about what my family means to them, they always mention my Uncle Bobby because whereas my Uncle Jack was a great President and someone who inspired a whole generation to public service, it was my uncle

ROBERT KENNEDY who really moved them in a personal way. And I can tell you for me it was history because I was not, I am among the youngest members of my family and JOE is amongst the oldest members of my generation. And he was with his father campaigning and he knew his father well.

I can tell you from watching the way he has orchestrated himself as a Member of this Congress, I can tell you without a doubt that everything I learn about my Uncle Bobby, I say about my cousin JOE.

He is there to fight on behalf of human rights, as has been mentioned, with the School of the Americas. He is there on behalf of those who need the help the most from government. And most of us in my family would say, hey, does not everybody do this? I mean, we were brought up thinking this was the thing to do. And JOE and my colleagues who are Democrats here, we have come to this Congress and, boy, I have only been here four years, but it has been long enough for me to realize that nothing that I have been brought up to believe in can be taken for granted. I thought that it has been done before and so what was left for us to do.

I can tell you what is left for us to do is to be stewards of the great legacy of the Democratic Party. In JOE's case, he was a steward of the great legacy of his father and of my whole family. He stood up on behalf of people who are being tortured in Central and South America when he worked to close the School of the Americas. He works on behalf of homeless veterans. The homeless situation in this country is a tragedy in itself, but to think that we have homeless people who are American veterans who have served this country in time of war and in time of peace, who come back and have no place to call home, they have no better friend than my cousin JOE.

JOE MOAKLEY, I happened to be in downtown Boston a couple weeks ago trying to take a break from the activity of politics down in Rhode Island. And I stumbled across a veterans shelter in downtown Boston. And I went in there and I said, I am JOE KENNEDY's cousin. And I can tell you, I got smiles from everyone all around, because everyone told me that they could not have had a better champion for homeless veterans than my cousin JOE.

It made me very proud to just say, I am Congressman KENNEDY and I am from Rhode Island, and I hope I can do somewhat as much as my cousin JOE has done for all of you in trying to provide assistance for the neediest of people in our society, our homeless veterans.

I was taken on a tour up and down the 7 flights of stairs where each floor was dedicated to housing workshops, vocational education and training workshops, you name it, it was all one-stop shopping for veterans, homeless veterans in our community. And it was there because of the tireless work of my cousin JOE and Congressman Moakley, and to think about what great pride it gave me made me realize why I am in this Congress.

I hope that some day I can be in the majority, as JOE had been in for a number of years, so that I can do some of the things that he was able to do when he was in the majority. But I know that whether we are in the minority or whether we are in the majority, either case, that what is important is that there is someone up there to fight for the interests of people who do not have representation in this body.

I can tell you, I wish this place had more Members of the caliber of my cousin JOE, because if it did, we would truly see what the true definition of government is supposed to be, and that is to protect the people who are least protected in our society. That is what I believe government is here for. That is the legacy of my cousin JOE. And if you wander the halls of this Congress and the last Congress, you would not know that because you would think that this place only existed for the people who could pay to have access to this place.

But that is not my cousin JOE. He went here to the Congress to make sure that there was access for people who do not have a voice, and I could not be more proud to try to carry on his legacy of public service. And I know as my colleague, Congressman MARKEY said, that my cousin JOE is just taking a respite now from public service. I know that he will be back, because he is somebody who is not committed to hold any particular office. He is committed to carrying on the legacy of his father. What an awesome legacy that is.

But he did everything he could do in his power to stay true to his father's legacy. Nothing could be said better than that for JOE KENNEDY, because he really is the kind of person who has the big heart and fights on behalf of people who need to have a fighter. And when you think of JOE, you think of a fighter. And if you think about the issues he fights for, you have got a road map for good humanistic causes, making sure people have their homes heated, making sure they have homes to stay in, making sure they are not terrorized by people who are educated by the School of Americas, making sure they have access to credit so they can provide for their families and their communities. I mean, you cannot help but appreciate that JOE has kept to the basics.

Most Members in this place try to find a niche that is more, that is sexy and is technical in nature and tries to give them a leg up with the powers that be in this town. JOE never lost sight of the true powers that he was here to represent and that is people who do not have any power in this society. He can be confident that when he leaves here, he leaves a legacy of someone who actually tried to change this country for the good and not just try to go along to get along, because that is not the cousin JOE KENNEDY that I know.

I know that will not be his legacy, because he is going to carry on and keep fighting for the people who need to be fought for.

Good luck, JOE. And I will look forward to continuing to get your good advice and counsel over the next few years because I am sure I am going to need it.

I thank my colleague from South Boston for yielding to me.

Mr. MOAKLEY. Mr. Speaker, the next person I will introduce is not a Massachusetts person but we accept him as one, a dear friend, a fellow I served with for many years on the Committee on Rules, an outstanding Member.

Mr. Speaker, I yield to the gentleman from Tennessee (Mr. GORDON).

Mr. GORDON. Thank you, JOE MOAKLEY. I thank you for all your leadership and friendship when we served together on the Committee on Rules. No matter how acrimonious things would get there, you were always able to tell a quick joke and help us to move forward. You certainly serve a great function there.

For those of us that know JOE, that know that probably the last place he wants to be tonight is right here, hearing Members say good things about him, I want to try to be very brief, because this is really sort of a bittersweet time for me. I know now that inevitably I am not going to see as much of my buddy, that we are going to be friends and we are going to stay in touch, but we are not going to see each other on a daily basis.

That is a hard thing to come to grips with, when you have spent so much time with someone over the years. But I am so happy for his new future.

I am also very sad that this House is going to lose his strong, passionate, energetic voice for the less fortunate, for the working men and women of this country. As so many folks have said here, JOE just does not say it, he feels it. And when you look up on the board and you see his vote, there is no compromises there. That is what he thinks needs to be done.

I do not think that I have seen anybody in the last 12 years that has worked harder at trying to make everyday working people's lives better, at trying to make sure that those folks that are less fortunate have a chance to get ahead.

□ 2145

One thing I have noticed, as JOE and I have been together and traveled around, is it is amazing just how recognizable he is. Whether he is on the

steps here in Washington or he is at an airport in Zaire, people know JOE KENNEDY. They come up all the time. And no matter how tired he might be, no matter how behind, and it seems like we are always behind, trying to catch the next plane or whatever it might be, he always stops. He talks to them. He wants to hear what is on their mind. Never complains about it. I think they help him to see how real people are and really what he is trying to do. It makes me proud when I see him that way.

So not to try to embarrass him any more tonight, but to say that I am glad that he is going to have more time with the boys. He has twin boys, Joe and Matt. They used to be little boys. Now they are big boys. And I guess probably the thing that JOE anguishes more over than anything is that every now and then he misses one of their ball games. It is a major deal when we are called in session and he cannot get there to see them, because they really are a team.

I am glad he and Beth are going to have even more time together. Beth is a soothing part of his life. And as PATRICK has pointed out, JOE is, to a great extent, is a patriarch of an extended family, for all the cousins, and he tries to be there. And I am glad he is going to have more time to be there for not only his generation but also that next one below. I think that folks do look at JOE to be the guy that will be there when they need him.

So, JOE, as you leave this Chamber and you leave this House, you do so truly, truly, truly knowing that you have left this Congress, this country, a better place. And I am happy to know that you are now going to take another adventure and that the enthusiasm that you brought to this Congress you are now going to take to the private sector now.

I do not know that it has been said yet, but JOE started a little company in his basement a few years ago and now it is a billion dollar, or multibillion dollar company, and its only purpose is to help others, to get them cheaper prescription drugs, to make their energy costs a little bit less expensive. So now JOE will be able to take that energy and help those same folks he has wanted to in a legislative way in an entrepreneurial way.

I am proud of you. Everybody that has worked with you is proud of you. And you, again, can leave this place knowing that it is better for your having been here. Thank you, JOE.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Tennessee, and the next gentleman to speak for JOE is a dear friend of his, the gentleman from Texas (Mr. JIM TURNER).

Mr. TURNER. Mr. Speaker, as a Texan, it is an honor for me to come pay tribute to my friend, JOE KENNEDY.

I must tell you, JOE, that when I first came to this House 2 years ago, just the thought of meeting you, and knowing the rich heritage that your family has and the contributions that your family has made over the years to our country, caught me somewhat in awe to meet you the first time.

I never will forget when we were in freshman orientation up at the Kennedy School at Harvard University and you invited the freshmen to come out for a dinner with you and Beth at the Kennedy Library. We had a chance to visit and to know the warmth and the charm that you and Beth both exude. It made me realize the character and the depth that you have as a person.

I will tell you that I have always been impressed as a freshman Member of this body that I have never walked past you without you saying, hello, hello, JIM. Someone who has been around here much longer than I have, who oftentimes, as a new Member with 434 other Members here in this body, oftentimes it takes a while to get acquainted with everyone. But I never will forget the warmth and friendship you have exhibited to me personally and to the other Members of the freshman class.

The Kennedy name means much in Texas. Over the years, as I grew up, and on the occasions when Kennedys would visit, it was always a warm experience because I know that many in Texas understood the depth of commitment that the Kennedy family has always had to those who maybe did not have quite as much as everyone else; those who needed a helping hand; those who needed the government to be there as their safety net. And in this body, JOE, you have stood for those values. Even though you come from a family of great recognition, you have always worked hard to be sure that those who needed the helping hand of government, needed the safety net of government, would have that assistance.

When we talk in this body among freshmen Members and we reflect upon those who have passed our way, I am sure that you and Beth will always have a very special place in all of our hearts. They always say that there is a special connection between Boston and Austin, between Massachusetts and Texas. We hope we can continue to keep that alive, and we appreciate, JOE, your service and your dedication to the people that you have exhibited these many years. It has been an honor for me to get a chance to know you, and I appreciate your friendship.

Mr. MOAKLEY. I thank the gentleman from Texas.

And now, Mr. Speaker, it gives me great pleasure to introduce the Congressman representing the first district in Massachusetts (Mr. JOHN OLVER), a member of the Committee on Appropriations.

Mr. OLVER. Mr. Speaker, first, I want to thank the gentleman from Massachusetts (Mr. MOAKLEY), the dean of my Massachusetts delegation, for putting together this opportunity to say something in a public way to honor JOE KENNEDY and the service he has provided here in the Congress of the United States; and also to say that I am very happy to join all the others from the Massachusetts delegation and the gentleman from Rhode Island (Mr. PATRICK KENNEDY), the younger Kennedy, who will soon be the elder Kennedy in the House of Representatives, although I am sure we will probably have some others from this far-flung family that has such a great legacy, as those who have already spoken have mentioned.

I, probably more than any other Member of the Massachusetts delegation, owe my presence, my opportunity to serve in the House of Representatives, to the assistance, JOE, that you gave, you and Beth together, gave me when I first ran for this seat in 1991.

JOE KENNEDY and his wife, Beth, campaigned with me in several of the cities, several places in the district that I presently serve, as it was constituted at that time. And I was always very grateful for that assistance, although I must say that, usually, in the events that JOE attended on my behalf, people would stampede by me wondering who the devil that was in the way when they wanted really to get to where he was and to be able to show their love for his father as well as his two uncles and to have a word from the various experiences that they had had over a period of time with them earlier.

My campaign staff always said that what I really ought to do on those events was to make certain that I kept right at JOE's elbow. And, of course, if I got right at his elbow, then I could immediately see the cameras trying to figure out how could they get this bald, toothless person out of the picture that they were taking.

And, of course, secondly, they would say, well, get yourself in between Beth and JOE. So we tried that. But that did not seem very comfortable, because I always preferred to go off in a corner and watch how JOE KENNEDY would work a crowd, a crowd of elders or a crowd of young people, whoever it happened to be, and it really it was really a revelation to me of how one should go about campaigning. There I was in my own district, but to have JOE come in and be able to show how campaigning really ought to be done in the true Massachusetts and true Kennedy tradition, that was certainly something that was important for me to know.

Various people have said things here about what JOE fought for and what JOE KENNEDY voted for and always able to know that he was fighting for and voting for those things that would help the poorest and the neediest in our society. And, yes, we all have memories of his leadership on matters like the

homeless veterans and the School of the Americas.

I suppose I remember most closely those several fights over logging rights in the national forests year after year. Sometimes, he would win. Win once, come very close, or win a vote and find a few days later that that vote was snatched away in one way or another among the various nefarious ways that those things can happen in the Congress.

And, yet, JOE would come back again each year, every year, to try to put an end to that process of spending millions of dollars on building roads into our national forests to the benefit of a very small number of the largest logging companies, who were then the further beneficiaries not only of the roads that we would build but also of the low-cost timber sales along the way, that kind of fight against the large corporations.

And his leadership in the Committee on Banking and Financial Services as the ranking member of the Subcommittee on Housing and Community Opportunity, continually fighting against redlining, that discriminatory practice that has been so detrimental to so many of our older communities, communities of great need.

And so I certainly would associate myself with the comments that have been made by several people, perhaps by the gentleman from Rhode Island (Mr. PATRICK KENNEDY). I do not know how he escaped to Rhode Island, but he seems to be quite well entrenched there. And also my dean for somewhere into the 21st century, the gentleman from Massachusetts (Mr. MARKEY), his comments along the same lines.

I would say that, indeed, JOE will be back at some point along the way in one of those roles that has been suggested, and he will still be fighting for those things he has fought for here openly, and as a happy warrior, without any quarter given or expected in those fights along the way.

JOE, I want to wish you and Beth the very best in that interim period. It has been great to have your friendship and your assistance over this period of time, and I am very happy to be able to call you a friend.

Mr. Speaker, I thank all the Members who have spoken here tonight. There are many, many other Members that would like to be here but have other commitments.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the tribute to our colleague, the gentleman from Massachusetts (Mr. JOE KENNEDY).

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

There was no objection.

DIFFERENCES BETWEEN REPUBLICAN AND DEMOCRAT PROPOSALS ON APPROPRIATIONS BILLS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida (Mr. MICA) is recognized for 60 minutes.

Mr. MICA. Mr. Speaker, I am pleased to be here tonight, as Congress winds up its responsibilities and completing its 13 appropriations measures, most of which have been agreed upon. And I think it is very important that tonight I address why Congress is still here and what some of the differences are that remain.

Most of the eight or nine easy appropriations bills have been agreed upon, and we are now down to the last few measures which Members of the House and the other body and the administration must agree to.

□ 2200

Tonight I want to discuss some of the major differences between what separates the Democrats and the Republicans at this juncture. The major difference really on most of the issues boils down to just a couple of items. One is keeping control in Washington, and then also the other part is whether we spend significant amounts of taxpayer dollars on bureaucracy, on waste, on administration and control in Washington, and not really addressing the real problems that our country is facing.

Tonight I would like to focus on the differences, what I consider real differences, between Republican proposals and the Democrat proposals. I think that one of the problems that we have is some of the proposals that our colleagues from the other side of the aisle, particularly those with a liberal bent, are proposing at this stage are ideas and concept whose time have really passed. I think they have old ideas. They have been used to spending more and getting less.

I think we have a different approach. We want to look at new ideas and how, with taxpayer dollars, we can get a better return, spending either the same amount of money or increasing it within the terms of the budget agreement for a balanced budget that we agreed upon.

Tonight I would like to talk a little bit about education, which we have heard bandied about the House Floor the last few days. I would like to talk about the subject of drug abuse and that problem facing our Nation.

If I get the opportunity, I would like to talk a bit about health care reform, which I think health care is a very important issue and particularly a reform that is necessary.

Let me review for a few minutes, if I may, what has taken place while the other side of the aisle controlled this body for the last 40 years. In 40 years, I believe, the other side was very well intentioned and well meaning, but unfortunately run and directed by liberals, again with old ideas, who during that tenure built a very costly and unresponsive bureaucracy, particularly in the area of education, which I would like to address first and then I will talk about several others.

I believe, never in the history of mankind, has there been created a bureaucracy in education that the liberals have come up with for this Nation. In 40 years, they have taken American public education from the greatest system to one of the weakest education systems in the world. In the process, they have taken teaching from a profession and turned it into a weakened, common labor and also into an endurance contest for those teachers who are dedicated and willing to remain in the classroom.

In 40 years, they have also managed to take any reverence or acknowledgment of a supreme being out of the classroom.

In 40 years, again, these well intentioned but, I think, misguided Congressmen and women and liberal jurists have taken discipline out of our classrooms and replaced teaching with teacher endurance and teacher abuse.

In 40 years, they bogged down State and local authorities in an incredible morass of red tape, paperwork and endless regulations.

Let me say also at this point that I consider myself a very strong advocate of public education. My studies and my degree at the University of Florida were from the School of Education. I am pleased to be married for the past 27 years to an individual who spent many, many years as an elementary school teacher, and very devoted to public teaching and taught in public schools.

I believe that we have no more important responsibility in our society than to provide for good, sound and useful educational opportunity for every American.

Somehow we have really strayed away from the right path in public education, and we have destroyed that great system of public education that I received and so many Americans had access to. All one has to do is ask any parent, ask any teacher, any principal, or anyone who takes time to really observe education today, and they will hear the same response.

Let us take just a brief look at what, again, this liberal and misguided Federal education policy has produced, and I might add it has produced some of the problems we have at tremendous expense to the taxpayer who is paying the bill for what they have created.

In 40 years, Democrats have created 788 Federal education programs. We

have so many programs, it is almost impossible for Congress to oversee or even count or keep track of all of the programs.

All of these programs have one thing in common. They keep control in Washington.

They actually have another thing in common that really costs the taxpayers a great deal and does not contribute much to education, and that is they, in fact, have created huge bureaucracies.

Mr. Speaker, the bureaucracies start right here in Washington with the Federal Department of Education. The Federal Department of Education has a total of 4,900 full-time employees in the department. There are 3,600 Federal Department of Education employees in buildings here in Washington, D.C.; 3,600.

Just imagine if we reduced that number, if we reduced the number of programs, and that is what we have recommended, we have recommended consolidating some of the Federal education programs, the duplicate programs. We have recommended that the money should not go to bureaucrats in the Department of Education. We can have a Department of Education, but do we need 4,900 in the Department of Education?

Some might say this number is a little bit lower than it has been in the past. What the Department of Education has very cleverly done at the Federal level is if they have reduced the full-time number of employees but have an army of nearly 10,000 consultants on contract with the Department of Education. So we are paying somewhere in the neighborhood of 15,000 Federal bureaucrats and administrators. Of course, each one of these 788 programs need a small host of administrators.

I will never forget in an oversight hearing, when we had from Detroit a teacher who came and talked about Federal education programs and the constraints, the bureaucracy, the rules and regulations that had been created. This teacher was asked the question, what is it like trying to deal with these different programs and trying to make your program work?

I will never forget what that educator said: Well, it is a little bit like giving birth to a porcupine. That is how complicated this morass of Federal regulations is.

Now, these people in Washington must have something to do, and they have created this incredible maze of Federal education bureaucracy. So in order for any of our local officials or our state officials, our local school boards, to get an answer on any education program and the morass and reams and pages and pages of Federal regulations which they now justify their positions by producing, they must go to this maze in Washington, D.C.

This maze, one might wonder where the rest of these folks are, these 4,900. There are 3,600, as I said, in Washington, D.C. The rest are in regional offices. There is not one in classrooms. I venture that if one looks at the salaries, and I chair the Subcommittee on Civil Service, one would see most of these individuals are earning between $50,000 and $100,000. Imagine the results if that money was sent to each of our hundreds of school districts across the Nation.

Again, I think there is a place for a Federal Department of Education, but do we need the mass of bureaucracy that we have created? Again, their number one responsibility is administering these 788 programs and producing the rules, the paperwork and all of the other requirements that are cast on our local school boards and our principals and finally on our classrooms. So that is a part of what we are facing as a Nation and as a Congress.

The easy part was done a little over a year ago, when we came up with a balanced budget plan. We know that we have to limit the amount of increases. We are increasing, and Republicans have increased education funds almost in every single area, more money in scholarships, more money in almost every single education program.

It may not be as much as the President would want or as some of the liberals would want, but we are doing it in the context of a balanced budget to limit the increases, not taking in and then spending more than we have taken in.

Let me say something else about what has happened under this well meaning but somewhat gone askew policy that has been established by the other side. School funding has more than quadrupled in the past 40 years, but teacher salaries have only increased 43 percent. That is a four-fold increase in the money that we put into schools, but less than a 50 percent increase for teacher salaries.

Where has the money gone? This article was in Investor Business Daily, who did a study in February of this year. The money has gone to the administrative bureaucracies. Consequently, teachers now barely account for half of the personnel in public schools.

Listen to that. Where has the money gone for education? It has not gone to the classroom, and it certainly has not gone to the teachers. Let me repeat this again: The money has gone to administrative bureaucracies. Consequently, teachers now barely account for half of the personnel in our public schools. So we are not spending money in the classroom.

One of the great debates that we have had here in Congress was a Republican proposal that said that money, Federal money, which only accounts for about 6 percent of all of the money in education, that our Federal money, 95 percent of it should go to the classroom and to the teacher and to the student and to basic education programs, and now that does not happen. That is why we have teachers leaving the profession. That is why teachers are not adequately compensated, because of the huge bureaucracy that we have built and that we require with this massive administration.

That is what part of this debate is about, and I am going to talk about some specific programs in just a few minutes.

The President wants 100,000 teachers. Mr. Speaker, I would propose that we turn that around and we do away with 100,000 administrators. We could start in Washington, D.C., with the army of 15,000. We take over 10,000 on contract and another 4,900, then the mass of bureaucracy and administrators that must support us to the point where over half of school funding now goes for nonteaching activities.

So if we want to do something beneficial, why not do away with 100,000 bureaucrats.

□ 2215

What is interesting, too, if one studies this, one will find how much these administrators make and this bureaucracy makes as opposed to the teacher in the classroom. The teacher, whose ultimate responsibility it is to produce the students, and we have another problem with the quality of teachers in our classroom, not to mention the compensation, and I will talk about that in a minute.

I come from the State of Florida, and I served in Tallahassee. The only building that I think is bigger in Tallahassee, Florida, than the capital, and Tallahassee is our State capital, the only building that is bigger I believe than the State capital building or as tall as the State capital building is the Department of Education. So we have required the building of a bureaucracy in Washington, in regional offices, and a good number of these folks that are not in Washington in the Department of Education are in regional offices and then in State capitals throughout the Nation.

So this is a part of the problem, and this is part of the battle. The easy part was when we balanced the budget, and we were called all kinds of names, and it was going to be the end of civilization as we knew it. But all we said is we are not going to take in and then spend more than we take in. It was a simple plan, and it worked, and it did balance the budget in record time. Now the tough part is improving these programs and getting quality, putting in dollars and getting a better return.

Now I ask any member of this body to sit down and talk with teachers, principals and school officials and see what some of the basic problems are

with education today. And those individuals will all tell us the same thing. First, they will tell us that there is a need for fewer regulations and paperwork. I met with our school superintendent, one of them, last week, and they will tell us that the regulations, the edicts, the mandates from Washington, D.C., that go to the State capitals and on to our local school board are financially bankrupting our local school system.

And the money is not going into the classroom, but this mass of regulations is paperwork, is requiring that everyone do something other than educate our children and on a quality basis. So everyone will tell us the same thing. That is part of what this battle, why we are here a couple days late, but that is part of what we are talking about, is how those taxpayer dollars are spent and how effective these programs are for our children.

Mr. Speaker, ask any teacher, again, ask any principal or school official, and they will tell us that another problem is rewarding good teachers, that we adequately compensate, we reward, we hold them in respect, and that we also have a way of eliminating poor performers. We must do that.

I chair the Subcommittee on Civil Service. In our Federal workforce we have many people who go to work every day and they do a great job, but there are a few folks, just like in Congress, except in Congress people get to vote them and they vote out the poor performers, unless they subvert the process, but eventually they are kicked out. The same thing we need to do in the classroom. We need to reward good teachers so that the money that we are spending here in Washington that less than 6 percent finds its way to the teacher and to the classroom, and we reward good teachers, and they have a mechanism to deal with poor performers.

But we have built up such a shield in all of these regulations that it is almost impossible now and also with turning a profession into a labor position to deal with the poor performers, and we have the same problem in our Federal workforce.

It is unfortunate, and we heard these statistics on the floor, that in some States teachers who have been tested cannot pass basic tests, and this must be addressed, the question of quality teachers in the classroom. So these are some of the items that need to be addressed.

This third item I want to address, and, again, this is one of the problems I hear recurring everywhere I go. Every teacher mentions it, every principal mentions it, everyone who deals with education today. The problem of discipline in our classrooms. Here, again, these regulators have passed an incredible maze of regulations. That is their job. They have passed all of these regulations, and we have liberal Members of Congress who side with liberal jurors, and there is no longer discipline, there is no longer respect, there is no longer order. How can a teacher teach without discipline in the classroom?

One of my district staff member's teacher is a teacher in central Florida. She has been attacked twice, and I am not talking about a school that is in Detroit or an urban setting or New York or Los Angeles. I am talking about a suburban setting. She was physically attacked, twice.

I brought into central Florida, because of my interest in trying to curtail the problem of drug abuse and the heroin deaths and cocaine deaths we have had with our young people in central Florida, I brought an oversight subcommittee in for a hearing in Lake Mary, Florida, a beautiful area, one of the loveliest places in central Florida to reside. And we had, in the drug hearing that I conducted, we had school security officers, we had school principals, we had law enforcement, local officials, teachers, parents and students all testify and talk about the problems of the classroom.

I was stunned and the members of our panel were stunned that the principal told us that they have lost control of discipline, that the school security officer told us that they can do nothing about students who violate the law in their classroom, because, again, of these liberal regulations, rules and judicial decisions. They are really captive to a classroom that has no discipline. And when that happens, a teacher cannot teach.

So this is another problem, again, well-intended, but it is something we are trying to address as a new approach, and it may be tough love like balancing the budget, but until we get control of our classrooms and return discipline to the classroom, allow a teacher to teach, we will continue to have these problems.

Again, I point to my suggestion, rather than 100,000 bureaucrats starting in Washington, Atlanta, Tallahassee and the others that are required, even requiring our school board to have the massive administrators to carry out the mandates from Washington, that we reverse that and that we concentrate on paying our teachers that are in the classroom, giving them the resources for the classrooms, making that 95 percent of Federal money, only 6 percent of all the money going into education effective.

What is interesting is we at the Federal Government in this Congress only supply 6 percent of education money but we provide 90 percent of the rules and regulations and mandates. That is why we have had this loud cry across the land for charter schools. Enough is enough. Let us run our schools.

The problem again we have is people in Washington think they know it all. That folks at the local level are too dumb, too ignorant, incapable. They cannot run their own schools. They cannot educate. The decisions have to be made here. The power must stay here. And that is basically what this whole battle is about, is who controls the purse strings and the power. That is why we are here late into the evening, that is why the appropriators are still meeting, because it is a question of power and control and changing all of that from up here in Washington to the local school boards.

Finally, I think it is important that we look at the results that 40 years have brought us. Again, I am a strong advocate of public education. I attended public schools, my children attended public schools, and we have to look at the incredible amount of money we are putting into the system, and then what the results are that we are getting.

Here are some of the results after 40 years:

Reading test scores. Reading is fundamental, absolutely basic. Mr. Speaker, 60 percent of 12th graders cannot read at a proficient level. That is absolutely astounding.

Mathematics test scores. The average score for eighth grade United States students on the math portion of the third international math and science study was 500, 13 points below the international average of 513. At least 20 countries scored higher than the United States.

Science test scores. How important for the future. The average score for eighth grade U.S. students on the science portion of the third international mathematics and science study was 534. Some countries, such as Singapore, Japan, and Korea achieved scores of over 600.

History test scores. Only 17 percent of fourth graders, 14 percent of eighth graders, and 11 percent of twelfth graders, that is graduation level, are proficient in history.

Scholastic Assessment Test scores, commonly known as SATs. In the 1994–1995 school year, 41 percent of the graduates took the SAT test. Of those, the average combined score was 910. This has dropped from 937, the average score in 1972.

Let me tell my colleagues another appalling statistic in my State, in my locale. Across the Nation, those entering our community colleges, of those entering freshman, over 50 percent require remedial education. One of my community colleges, the president of the community college told me it is 70 percent of his entering freshmen. And this failure of education costs us money.

Here is an article recently from central Florida, Orlando, Too Many Students, the headline is, Not Learning Basics. The State is spending $52 million on remedial education, just to

bring community college students up to speed.

Now, it would be easy to come and just criticize what has been done in the past, but I think it is important that we look at what our side, the Republican majority, has proposed in the field of education. First of all, again, this mass of hundreds and hundreds of highly bureaucratic, expensive-to-administrate 788 programs. Our Dollars to the Classroom Act consolidates 31 Federal education programs into a single flexible grant program for States and communities. The legislation will provide $2.74 billion funding for local schools. Instead of, again, increasing money for bureaucrats in Washington, our Republican majority's plan eliminates a tangled web of red tape, which ensures that tax dollars will really reach our individual students, our classrooms and our teachers.

□ 2230

While the Republican majority tries to always speak out for parents, students, and teachers, the other side remains mired in the politics and the policies and the approach of the past. They end up defending groups and organizations who are intent on keeping the status quo in education.

The most important thing we can do, I believe, is again, getting funds to the classroom. We have a very specific proposal to do that, as I said, through this proposed consolidation. We also have another proposal for increased parental control. Funds from this legislation can be used for a wide variety of activities, including new technology, instructional materials, education reform, and professional development. Individual school districts will be able to work with parents to select what activities are best suited to their communities and to their needs.

This is a unique approach. Rather than Washington telling them what they must do, they will be partners in deciding what is done. In fact, if local communities are happy with their current programs, this legislation does not require that they make any changes at all. So these are some of the proposals that we have made, again, trying to improve the quality and get dollars to the classroom.

Mr. Speaker, let me go over a couple of the other proposals that we have made. I want to repeat them, although Members have heard the gentleman from Pennsylvania (Mr. GOODLING), who has done an incredible job leading the committee of jurisdiction, and other Members talk about them. But let me reiterate some of the things that the Republican Congress is doing to improve educational opportunities for all Americans.

First, we have improved our public schools by sending more money to the classroom for teachers, for computers, for safer buildings, and for teacher testing. Again, we have sent the money there.

We had a great proposal in the tax bill which the President threatened to veto which was also to allow for local school bonds to be issued and some tax credits for additional school construction. As we know, there are needs for additional classrooms, but we want to work as a partner and allow the schools to take advantage of Federal assistance, rather than dictate what is done in each of these school jurisdictions.

We made college more available and affordable to all students through tuition tax credits. We have created also through our policies the lowest student loan interest rate in 17 years. We have lived up to our commitment to special education by taking money away from Washington bureaucrats and sending it to our children's classrooms across the Nation to improve the quality of their instruction and their learning opportunity for all children.

We tried to give opportunities and choice, and make them available to students who were stuck in school systems that just do not work, or do not fit into this maze of regulations and this square box that the bureaucrats in Washington have created.

I think that we have done an excellent job in framing the issues here in Washington. What we have not done, I think, is gotten our word out to the American people about what we intend to do in these different programs. That is sometimes because of the shrill rhetoric of the other side.

I want to also talk tonight in the field of education about one of the areas I have tried to improve in the committee. Again, under the gentleman from Pennsylvania (Mr. GOODLING), the Committee on Education and the Workforce has done an incredible job in improving education, and part of that, again, is the battle that is being waged here about what gets put in the final product.

I want to talk about Head Start. I consider myself one of the strongest advocates of Head Start, and any program, education program, that will take the neediest children in our society and give them an opportunity to have an advantage, particularly those who are needy, those who are disadvantaged, and to give them every opportunity to succeed in our educational system.

Long before they created Head Start, I was involved in a Head Start program in a local community where I went to college. And again, I was in the School of Education at the University of Florida. If we look at disadvantaged students, if we look at students that are needy, that do not have educational opportunities, we must realize as a society that we are creating our future problems in society if we do not address their needs. We must correct them at the earliest possible age and stage, because that is when they learn the basics and fundamentals: reading, writing, mathematics, all of these foundation skills that are so important.

So I became involved early on. I support Head Start. The concept is great. But unfortunately, what has happened is what has happened with the bureaucracy I described here, and this chart could be used to describe the bureaucracy we have created in Head Start. The same thing has happened.

I have testified before the Committee on Education and the Workforce in this Congress and in former Congresses to try to explain the need to assist communities such as my community, and one of the Head Start programs in my community, with the need for flexibility; the need to address, again, areas of our country which have needs but do not fit into that Washington bureaucratic mold.

Let me say that the Republican majority has funded Head Start at its highest levels, and our FY 1999 appropriations bill will have more than $150 million. I am sure when the final figures are in it will have an increase, and that is important. It is not just how much money we throw into these programs or put into these programs, it is what happens with the programs, what results do we get from the programs.

I had a parent come to me several years ago who alerted me about one Head Start program in central Florida. I might say that there are many Head Start programs that work very well. We may or may not need to make changes in some of these programs.

I have advocated a change as far as the quality of opportunity, the quality of the Head Start program. I am very pleased that the Republican majority, with some help from others on the other side of the aisle, we will incorporate some of my recommendations into improving Head Start. Let me give the Members a great example of how this program does not work the way it was intended everywhere.

Again, I had a mother come to me and alerted me about a program. She was a single parent, a very smart lady, and wise to put her children, her two children, into this program. Her husband had departed and left her with the children. She wanted to give them every opportunity. She put them into a Head Start program, and then she was on the local advisory council. She started looking at what was going on with this Head Start program.

Two of my counties, actually, one in my district and one in another congressional district, have so few students that they cannot make a total program that meets all the requirements of the Federal Head Start. Again, there are these regulations and mandates. So they came together, even though they are miles and miles apart, and it does

not make much sense, but that is the way we have to do it in order to participate.

This parent asked me to look into what was going on in the Head Start program. I got a copy of the budget. I visited all the Head Start programs in my district. I visited the private school programs. I got a copy of their budget. I have a copy of their budget.

The budget for this Head Start program requires over 20 administrative or bureaucratic positions, and some may be necessary. There are various education coordinators, family services coordinators, nutrition coordinators. Someone has to decide whether you have a lot of peanut butter or too much jelly, but they require all of these folks, and they may all be necessary positions, some of them, but we have 20-some administrators. We have 18 teachers, so-called teachers in the program.

The teachers in the Head Start program make from $12,000 to $18,000. Here is the list of their salaries. I should say it starts at $11,618. The administrators make from, well, the lowest one I can find here is $17,000 up to $50,000. I have in this program less than 500 students, and I have over 20 administrators earning from $17,000 to $50,000 to administer this program. The cost per pupil in this program is nearly $6,800. The very best private preschool program in my district I could send a child to, and it has longer hours than the program that currently exists, which would benefit the single working mother, because sometimes they cannot get their child out of school in the middle of the day when the Head Start program ends.

How does it make sense to have that many administrators? I begged and pleaded with the committee and with the bureaucrats to change this. Unfortunately, they would not change this. They granted us very little flexibility. But this is exactly what this argument is about. It is how many bureaucrats, how many folks we can mandate from Washington, and they do not want to give any flexibility. We built this into a great little bureaucracy; not a little bureaucracy, unfortunately, but a big bureaucracy. Who gets the disadvantage from this? It is those children that need it the most. We are spending the money on overhead, not on classrooms.

Let us look at the teachers who earn, so-called teachers, from $12,000 to $18,000. I won part of this battle, but they fought us tooth and nail. We are demanding quality in these Head Start programs so that that disadvantaged child has the best opportunity.

I will tell the Members, this is not all of the Head Start programs, and we must sort through them to make certain that we have quality. But when I went into some of those programs, I saw that the students there did not have the best opportunity. They did not have opportunities to the best exposure.

So if we take them out of a tough setting, a setting where they are not exposed to the culture, to the education, to other opportunities, language skills, and we put them back into that in some type of a minority hiring program, what have we done to these students? We have done them a great disadvantage.

So this has been one of the great, fundamental debates that is going on here. It is not just about dollars or number of dollars into these programs, it is about the quality of the programs, how the taxpayer dollar is spent, to give the flexibility. There are small districts and there are small areas in rural areas with disadvantaged students who have no opportunity to participate because they cannot afford the administrative overhead that this requires. They would not grant us the flexibility to do that.

We did get some concessions. Let me describe some of them in the legislation that will pass, I hope. We have provisions, and our side insisted on language and literacy growth assistance for children. We proposed new education performance standards and measures. We are asking for legislation that ensures that children, and listen to this, that they develop print and numeracy awareness, that they understand and use oral language to communicate for different purposes, they understand and use increasingly complex and varied vocabulary, they develop and demonstrate an appreciation for books, and in the case of non English speaking children, progress towards acquisition of the English language.

I think back to my grandparents, all of whom were immigrants. If their children had gone to public schools and they had not been given the opportunities we are talking about here and the exposure, if we had put them into another immigrant or minority setting, if we had not exposed them to the language skills, if we had not given them the opportunity to learn English, where would my parents and others in my family have gone?

□ 2245

So, we have lost track of where we wanted to go with this program. We, as Republicans, want to bring accountability. We want to bring quality to Head Start. We support Head Start. We will fund Head Start. But the battle is about how the dollars are expended and what are the results with taxpayer dollars. Because there are many Americans who work very hard to send their money to Washington. They want that money spent on programs that assist those most in need.

We are a very compassionate society and we have a responsibility because, again, those children, if they do not develop these skills, they will be our discipline problems, they will be our learning problems, they will be our dropout problems, they will be our crime problems, and we will pay for them at the other end.

So, it is important that we fund viable Head Start programs. That we have flexibility, but we also have accountability. That we reach out. We are now serving in Head Start 830,000 students. With just a little bit of flexibility in my community, if they had granted me that flexibility, I could have sent half the kids to the best preschool programs and sent the other half to any program of their choice, if they had granted us a little bit of flexibility.

So, instead of serving 500, we could have served a thousand. But, again, this need to control things here in Washington, to maintain the bureaucracy, the control, and set all these regulations in one box, whether they serve Central Florida or a rural area in Texas or Michigan or whenever, they did not want to do that.

So, that is what this fight is about tonight. The battle is not because Republicans do not care about education. In fact, the battle is because Republicans care about education and they care that in fact we are not getting a return for our tax dollars.

I would like to also take an opportunity to talk tonight about another issue which I think is very important. We have heard the other side talk about children and how they are concerned about children and care about children. I think it is an area that we need to talk about as Republicans, as majority members.

I came to this Congress, Mr. Speaker, in 1992 when Bill Clinton was elected President. When Bill Clinton was elected President, he began a dismantling of our drug enforcement programs. I spoke more than any other Member on the floor of the House and in committee about what was going on.

Bill Clinton dismantled interdiction. He dismantled use of the military. He dismantled the Andean strategy to stop the drugs at their source. He hired Joycelyn Elders, the infamous Surgeon General, our chief health officer, who said "Just say maybe" to our children. He took the Coast Guard and the military out of our fight in the war on drugs. Just one disaster after another, and we are paying for it today.

We have the highest incidence of drug use and abuse, particularly among our children, that this Nation has ever seen. From 1992 to present, the statistics for heroin, cocaine, methamphetamines, hard drugs has skyrocketed.

In today's paper, in the Washington Times, there is a big article about cocaine cartels taking on a new product, heroin. Heroin that has killed so many in my district. Let me read what Tom Constantine, the Drug Enforcement Administrator, said in this article. And I quote,

"For years we have seen a hard-core, older population of approximately 600,000 heroin addicts. Today, we are seeing 11th and 12th graders turning to heroin. These initiates are at the outset of a long, downward spiral into hard-core addiction or death."

That is what has happened. In every area, our young people, some in the elementary schools, are now exposed to hard drugs, cocaine, heroin, methamphetamines. We have 15,000 deaths, many of them teens. I come from Central Florida. I have held this up many times on the floor of the House, Orlando number two in cocaine deaths. Long out of sight, heroin is back killing teens. We have lost nearly two dozen teens in Central Florida to drug—heroin and cocaine—abuse just in the last year or so. It is almost becoming routine to see our young people dying.

Let me tell my colleagues what the Republicans have done. During the Democrat administration, we held one hearing on the national drug policy and that was closed within an hour and I was denied the opportunity to speak. Under the leadership of the Republican Majority, we have held over 50 hearings on our national drug policy. Part of the battle and part of the reason we are here is we wanted 3 additional billion dollars to reorganize and reinstitute the programs that were cut, the interdiction programs that were cut, the source country programs, the involvement of the military and the Coast Guard that were cut by this President.

Mr. Speaker, that is why we are here tonight, because there is a major battle looming on the streets and in the communities across our land dealing with drug abuse and misuse. It is an incredible sad commentary on this administration.

And also I am concerned about the American people when they have a couple of dollars in their pockets that they do not care or express concern or outrage that this is allowed to go on. And it affects them in every community, because crime is tied into this drug use and abuse in every one of our communities.

It is particularly affecting our young people. Again, this administration has ignored any hard steps in this fight. Now, today, they are still fighting us, as the gentleman from Illinois (Mr. HASTERT), the chairman of our Subcommittee on National Security, International Affairs, and Criminal Justice is fighting to put the dollars that we need to stop, in a most cost-effective way, drugs at their source.

We know where the cocaine comes from. It is coming from Bolivia. It is coming from Peru. It is coming from Colombia. And there is no reason why we do not have the resources, the dollars spent there to stop drugs at their source or in interdiction where we can stop them. Trying to catch them when they get into our communities is like going out on the lawn and having a lawn sprinkler and running around with cans trying to catch all the sprinkles. We will never do it in that fashion, but we can restore the cuts that were made in 1993 through 1995 that destroyed our ability to repel drugs at our source.

That is why we are here. We are here to improve education. We are here to correct the mistakes of 40 years. Again, well-intended but misguided, and very liberal solutions which have gotten us into a fix in education that appalls every teacher, every parent, and every American who takes a serious look at public education today.

We are here because we are having a battle over where we put our resources. Do we put our resources in failed programs? Do we put our resources in programs that are cost-effective that stop drugs at their source, that restore the cuts in the Coast Guard that bring the military back into this battle so we stop heroin, cocaine and hard drugs before they ever reach our shores?

We have 2 million Americans in jail, and any sheriff or any law enforcement official will say that between 60 and 70 percent of those folks are in prison at great public expense because of drug abuse and misuse.

So, my colleagues again we come before the American people. We are winding down. Some of the easier bills are behind us. We have 13 bills to fund the government to make our system of government work. 13 bills. Eight or nine of them have been decided upon. The tough ones are still to go. But they are very important and they are very important differences in the American people and every colleague should know those differences.

Our intent again is to do the very best job for the people who sent us here with their hard-earned tax dollars. So as I conclude, I thank the Speaker for his indulgence this evening. It is my prayer and hope that we can work together to resolve these differences; that we can learn from the mistakes that have been made in the past; that we can come together in the best interest of the American people, the children that are talked about so much, whether it is education or drug policy and resolve these source social problems facing our Nation.

ISSUES OF VITAL IMPORTANCE TO THE U.S. VIRGIN ISLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Ms. CHRISTIAN-GREEN) is recognized for 5 minutes.

Ms. CHRISTIAN-GREEN. Mr. Speaker, I come from a part of this great country that is known as America's Paradise and for its natural beauty, its comfortable climate, and its hospitable people. But, Mr. Speaker, today the U.S. Virgin Islands is becoming a paradise lost. So, in these final hours of the 105th Congress, I rise to once again draw its attention to some issues of critical importance to my territory and to make this final plea for support and enactment.

First is the issue of the excise tax on Virgin Islands-produced rum, although I must tell my colleagues that this also applies to Puerto Rico. By law, all of the excise taxes on this rum is to be returned to the territory. But, Mr. Speaker, we have never received the full "cover over" as it is called.

In the early 1980s, it was agreed that the full 100 percent would be returned. But, due to problems unrelated to the Virgin Islands and long since resolved, it was never realized. Up until 5 years ago, we received only 77 percent of those taxes. At that time it was increased to 80 percent, but only through this fiscal year 1998.

In this year's budget submitted by the President, funds were provided to fully correct this and return the full amount to the Virgin Islands and to Puerto Rico, but this has still not been passed nor has it been assured. If nothing is done to extend the return at its current level, or hopefully at the full 100 percent, it will revert. The territory would lose badly-needed revenue, and this would further jeopardize our already troubled economy because we depend on it for needed capital projects and bond repayments.

The second issue is one that is also important to the people of Puerto Rico as it is to my own constituents in the Virgin Islands. It is the provision of insurance to meet the health care needs of our children. This too has been included and was fully offset in the budget sent to the Congress in 1997, and again in this year. Last year, the funding was cut back to one-sixth of what was initially proposed. Unfortunately, the health needs of our children did not commensurately reduce.

□ 2300

All we ask is that this year's chip be fully funded at the proposed level and that no American child be left behind for any reason and surely not just because of where he or she lives.

There is one more issue that I would like to address to this as well as to the other body. That is also to ask for inclusion of the miscellaneous tariff bill in the final budget agreement. This was a part of the proposed 1999 budget and its budgetary impact is negligible.

Mr. Speaker, included in this bill is an extension of a provision that would save our watch industry and badly needed jobs, particularly on my home island of St. Croix. All of these programs represent minuscule dollars in the larger scheme, but to my district, which has been buffeted by storm after storm, they have enormous impact.

Mr. Speaker, many of the districts represented in this House have been,

all of them have been experiencing an economic boom, while ours, largely because of repeated natural disasters, is languishing.

Let me interject a word here about the latest hurricane to hit us, Georges, because not much has been said in the national press about its impact on the Virgin Islands. For us, as in other parts of the Caribbean and the United States, Hurricane Georges was a major hurricane that affected all four of our islands. However, because we have learned from the past and with FEMA's help applied those lessons successfully, our damages, though quite disruptive to our lives, were minimized and our recovery is moving steadily ahead. But we cannot fully rebound and take up a path of economic revitalization and sustainable growth without the help that these three programs would provide. So we ask that all be included in the final budget package.

The rum excise taxes so that we can continue to build, the children's health insurance dollars to help our families and alleviate the burden on our Medicaid capped government, and the lifeline needed by our otherwise dying watch industry.

I want to join my colleagues who spoke earlier in thanking Congressman JOE KENNEDY for his contributions to this House and this country and to wish him well as he leaves to continue what I know will be a life of service to all of us.

OMMISSION FROM THE CONGRESSIONAL RECORD OF OCTOBER 10, 1998

A portion of the following debate was inadvertently omitted from the CONGRESSIONAL RECORD of October, 10, 1998:

□ 2315

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

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with a great deal of regret that I object to the passage of S. 2095 as amended by our counterparts on the other side of the aisle.

Historically, the excellent programs of the National Fish and Wildlife Foundation have had strong support of Members of Congress on both sides of the aisle since the foundation's inception in 1984. I supported similar legislation to this as introduced and as reported by the Subcommittee on Fisheries Conservation, Wildlife and Oceans last October.

Unfortunately, the amendments adopted by the Committee on Resources that have now been attached to this Senate bill have transformed what would have been a straightforward reauthorization of a popular program into a partisan platform for objectives to undermine the Endangered Species Act.

In particular, the amendment adopted by the committee which is now attached to this bill would prohibit the foundation from funding any activities related to the reintroduction of the wolves or the grizzly bears in Idaho, Montana, Utah and Wyoming. While this may seem like a narrow exception, it seriously undermines the fundamental integrity of the foundation's ability to do its job.

The National Fish and Wildlife Foundation is an established, competitive grant-making organization with a long history of funding successful conservation programs throughout the United States. The amendment that has been established to this legislation really questions whether Congress should now be getting into the second-guessing of these programs.

Let me say that the foundation has not funded any grizzly bear reintroduction efforts, though it has funded research and education programs on the prevention of human being/grizzly bear interactions. In addition, the foundation was awarded less than $100,000 worth of projects related to the reintroduction of wolves.

For those reasons, I reluctantly oppose this legislation, because this has been an outstanding organization, with many, many people who have served on the board of directors, who have given an inordinate amount of time and money and have secured really significant amounts of private contributions to the ongoing efforts of both the programs sponsored by the Federal government, State governments, local governments and the private sector.

I would hope that we would not now start trying to micromanage this agency with Congressional amendments, given their track record of success both in creating programs that are highly successful, with a great deal of local support, and also in creating the kind of private/public partnership that we so often say we want.

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

Mr. SAXTON. Mr. Speaker, I have no further speakers at this time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADY of Texas). The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON) that the House suspend the rules and pass the Senate bill, S. 2095, as amended.

The question was taken.

Mr. MILLER of California. 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.

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. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mrs. TAUSCHER, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

(The following Members (at the request of Mr. ROGAN) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. COBURN, for 5 minutes, today.

Mr. SANFORD, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. MALONEY of New York, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. CHRISTIAN-GREEN for 5 minutes today.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

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.J. Res.: 134. Joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes.

JOINT RESOLUTIONS 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, joint resolutions of the House of the following titles:

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.

H.J. Res. 134. Making further continuing appropriations for the fiscal year 1999, and for other purposes.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 1 minute p.m.), under its previous order, the House adjourned until Tuesday, October 13, 1998, at 9 a.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Executive Communications Re-Referred: E10,321, E10,322, and Memorial 303]

10321. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Colorado; Decreased Assessment Rate [Docket No. FV98-948-1 IFR] Received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); referred to the Committee on Agriculture. July 27, 1998.

10322. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate [Docket No. FV98-931-1 IFR] Received July 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); referred to the Committee on Agriculture. July 27, 1998.

303. By the SPEAKER: A memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 10 memorializing the recognition of state and county rights-of-way under Revised Statute 2477 and take appropriate action to invalidate the proposed policy change for forest roadless areas; jointly, to the Committees on Agriculture and Resources. May 4, 1998.

11651. A letter from the Administrator, Rural Development, Department of Agriculture, transmitting the Department's final rule—Long-Range Financial Forecasts of Electric Borrowers (RIN: 0572-AA89) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11652. A letter from the Administrator, Rural Development, Department of Agriculture, transmitting the Department's final rule—Year 2000 Compliance: Electric Program [7 CFR Parts 1710 and 1726] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

11653. A letter from the Chairman, the Board of Governors of the Federal Reserve System, transmitting the ninth annual report on the assessment of the Profitability of Credit Card Operations of Depository Institutions, pursuant to 15 U.S.C. 1637; to the Committee on Banking and Financial Services.

11654. A letter from the Clerk, District of Columbia Circuit, United States Court of Appeals, transmitting an opinion of the United States Court of Appeals for the District of Columbia Circuit, No. 97-1250—Larry Hice v. Director, Office of Worker's Compensation Programs, United States Department of Labor and Electrospace Systems, Inc.; to the Committee on Education and the Workforce.

11655. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Energy Conservation Program for Consumer Products; Energy Conservation Standards for Electric Cooking Products (Electric Cooktops, Electric Self-Cleaning-Ovens, and Microwave Ovens) [Docket Number EE-RM-S-97-700] (RIN: 1904-AA84) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11656. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Personnel Assurance Program (RIN: 1992-AA14) [Docket No. DP-RM-97-100] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11657. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions (RIN Number: 1901-AA81) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

11658. A letter from the Chairman, Federal Communications Commission, transmitting the Commission's Third Annual Report and Analysis on Competitive Market Conditions With Respect to Commercial Mobile Services, pursuant to 47 U.S.C. 332(c)(1)(C); to the Committee on Commerce.

11659. A letter from the Chairman, Nuclear Regulatory Commission, transmitting The Price-Anderson Act-Crossing the Bridge to the Next Century: A Report to Congress; to the Committee on Commerce.

11660. A letter from the Acting Director, Defense Security Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98-47), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

11661. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Greece for defense articles and services (Transmittal No. 98-38), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

11662. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of decisions made by the President regarding the drawdown of articles and services from the inventory and resources of the Departments of Defense, State, Justice, the Treasury, and Transportation, and military education and training from the Department of Defense, to provide counternarcotics assistance to Colombia, Peru, Bolivia, Brazil, Ecuador, Mexico, Guatemala, Honduras, Jamaica, Dominican Republic, Trinidad and Tobago, and the countries of the Eastern Caribbean Regional Security System (Presidential Determination 98-41), pursuant to 22 U.S.C. 2364(a)(1); to the Committee on International Relations.

11663. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification for FY 1999 that no United Nations agency or United Nations affiliated agency grants any official status, accreditation, or recognition to any organization which promotes and condones or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103—236; to the Committee on International Relations.

11664. A letter from the Chief Counsel, Office of Foreign Assets Control, Department of Treasury, transmitting the Department's final rule—Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions Regulations [31 CFR Part 586] received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

11665. A letter from the Secretary of Defense, transmitting a report on the proposed obligation of up to $53.4 million to implement the Cooperative Threat Reduction (CTR) Program under the FY 1998 Department of Defense Appropriations Act, Public Law 105-56, pursuant to Public Law 104—106; to the Committee on International Relations.

11666. A letter from the Director, Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule—Executive Office for Immigration Review, Board of Immigration Appeals; 18 Board Members [EOIR No. 123F; AG Order No. 2180-98] (RIN: 1125-AA24) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

11667. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting a copy of the Report of Audit for the year ending 31 March 1997 of the Association's accounts, pursuant to 36 U.S.C. 1101(41) and 1103; to the Committee on the Judiciary.

11668. A letter from the Chairman, United States Sentencing Commission, transmitting an amendment to the sentencing guidelines which enhances penalties for fraudulent telemarketing schemes and other similar offenses, pursuant to Public Law 105-184; to the Committee on the Judiciary.

11669. A letter from the Acting Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting the Department's final rule—Upgrading of the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) Accreditation Manual (Docket Number 980722187-8187-01) (RIN: 0693-ZA21) received September 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

11670. A letter from the Secretary of Labor, transmitting a report on the labor market situation for certain disabled veterans and Vietnam Theater veterans, pursuant to 38 U.S.C. 2010A; to the Committee on Veterans' Affairs.

11671. A letter from the Chairman, United States International Trade Commission, transmitting the combined report on the Caribbean Basin Economic Recovery Act—Impact on the United States, and the Andean Trade Preference Act—Impact on the United States, pursuant to 19 U.S.C. 3204; to the Committee on Ways and Means.

11672. A letter from the Acting Assistant Secretary for Import Administration, Director, Office of Insular Affairs, Department of Commerce, Department of the Interior, transmitting the Department's final rule—Limit On Duty-Free Insular Watches In Calendar Year 1999 [Docket No. 980716178-8234-02] (RIN: 0625-AA53) received September 26, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11673. A letter from the Secretary of Agriculture, transmitting the Department's final rule—Designation of Rural Empowerment

Zones and Enterprise Communities (RIN: 0503–AA18) received October 8, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

11674. A letter from the Administrator, Department of Health and Human Services, transmitting a report on Agency Drug-Free Workplace Plans, pursuant to Public Law 100—71, section 503(a)(1)(A) (101 Stat. 468); jointly to the Committees on Government Reform and Oversight and Appropriations.

11675. A letter from the Principal Deputy Assistant Secretary For Congressional Affairs, Department of Veterans Affairs, transmitting a draft of proposed legislation to provide a temporary authority for the use of voluntary separation incentives by the Department of Veterans Affairs to reduce employment levels, and for other purposes; jointly to the Committees on Veterans' Affairs and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 4326. A bill to transfer administrative jurisdiction over certain Federal lands located within or adjacent to the Rogue River National Forest and to clarify the authority of the Bureau of Land Management to sell and exchange other Federal lands in Oregon (Rept. 105–810). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 4111. A bill to provide for outlet modifications to Folsom Dam, a study for reconstruction of the Northfork American River Cofferdam, and the transfer to the State of California all right, title, and interest in and to the Auburn Dam, and for other purposes; with an amendment (Rept. 105–811). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3056. A bill to provide for the preservation and sustainability of the family farm through the transfer of responsibility for operation and maintenance of the Flathead Indian Irrigation Project, Montana; with an amendment (Rept. 105–812). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 4223. A bill to assist in the development and implementation of projects to provide for the control of drainage, storm, flood and other waters as part of water-related integrated resource management, environmental infrastructure, and resource protection and development projects in the Colusa Basin Watershed, California (Rept. 105–813). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1567. A bill to provide for the designation of additional wilderness lands in the eastern United States; with an amendment (Rept. 105–814). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 4023. A bill to provide for the conveyance of the Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest; with an amendment (Rept. 105–815, Pt. 1). Ordered to be printed.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3297. A bill to suspend the continued development of a roadless area policy on public domain units and other units of the National Forest System pending adequate public participation and determinations that a roadless area policy will not adversely affect forest health; with an amendment (Rept. 105–816, Pt. 1). Ordered to be printed.

Mr. ARCHER: Committee on Ways and Means. 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; with an amendment (Rept. 105–817). Referred to the Committee of the Whole House on the State of the Union.

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. CRANE (for himself, Mr. BEREUTER, Mr. MATSUI, Mr. GILMAN, Mr. BERMAN, and Mr. PORTER):

H.R. 4807. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Mongolia; to the Committee on Ways and Means.

By Mr. SNOWBARGER (for himself, Mr. KANJORSKI, and Mr. DAVIS of Virginia):

H.R. 4808. A bill to amend the Federal Deposit Insurance Act to permit an affiliation between a depository institution and the holding company successor to the Student Loan Marketing Association under certain circumstances and subject to certain conditions; to the Committee on Banking and Financial Services.

By Mr. ABERCROMBIE (for himself and Mrs. MINK of Hawaii):

H.R. 4809. A bill for the relief of the State of Hawaii; to the Committee on Ways and Means.

By Mr. COLLINS:

H.R. 4810. A bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals subject to Federal hours of service; to the Committee on Ways and Means.

By Ms. DELAURO:

H.R. 4811. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to prohibit fees for using teller windows at depository institutions, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. DREIER:

H.R. 4812. A bill to make the Federal employees health benefits program available to individuals age 55 to 65 who would not otherwise have health insurance, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JONES (for himself and Mr. BURR of North Carolina):

H.R. 4813. A bill to amend the Communications Act of 1934 to protect critical infrastructure radio systems from interference and to promote efficient spectrum management of the private land mobile radio bands, and for other purposes; to the Committee on Commerce.

By Mr. POMEROY (for himself and Mr. HILL):

H.R. 4814. A bill to provide for the harmonization of registrations of certain pesticides used on canola; to the Committee on Agriculture, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. QUINN:

H.R. 4815. A bill to provide that December 7 each year shall be treated for all purposes related to Federal employment in the same manner as November 11; to the Committee on Government Reform and Oversight.

By Mr. REDMOND (for himself and Mrs. WILSON):

H.R. 4816. A bill to authorize the acquisition of the Valles Caldera currently managed by the Baca Land and Cattle Company, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture through the private sector, and for other purposes; to the Committee on Resources.

By Mr. SOLOMON (for himself and Mr. SAM JOHNSON of Texas):

H.R. 4817. A bill to provide a location in Arlington, Virginia, for construction of a memorial to honor the men and women who have served in the United States Air Force; to the Committee on National Security, and in addition to the Committee on Resources, 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. TOWNS, Ms. MILLENDER-MCDONALD, Ms. PELOSI, Ms. LEE, Ms. CHRISTIAN-GREEN, Mrs. MINK of Hawaii, Mrs. MEEK of Florida, Ms. KILPATRICK, Ms. SLAUGHTER, Mr. HILLIARD, Mr. SCOTT, and Mr. FROST):

H.R. 4818. A bill to provide that payments of the earned income tax credit are to be disregarded for 12 months in determining eligibility for benefits under the program of block grants to States for temporary assistance for needy families, the supplemental security income program, the Medicaid Program, and public housing programs; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and Banking and Financial Services, 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. LIVINGSTON:

H.J. Res. 134. A joint resolution making further continuing appropriations for the fiscal year 1999, and for other purposes; to the Committee on Appropriations.

By Mr. ARCHER (for himself, Mr. REGULA, Mr. BUNNING of Kentucky, Mr. DICKEY, Mr. ENGLISH of Pennsylvania, Mr. WELLER, and Mr. ADERHOLT):

H. Con. Res. 350. Concurrent resolution calling on the President to take all necessary measures under existing law to respond to the significant increase of steel imports resulting from the financial crises in Asia, Russia, and other regions, and for other purposes; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

401. The SPEAKER presented a memorial of the General Assembly of the State of Georgia, relative to House Resolution Number 856, urging the United States Congress, the Secretary of Agriculture, and the Federal Crop Insurance Corporation to revise comprehensively the existing laws, regulations, and policies with respect to the Federal Crop Insurance Program in order to adequately protect farmers against unavoidable crop losses and to prevent the serious reduction in farm operations and farm acreage throughout the nation; to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mrs. WILSON.
H.R. 40: Mr. WYNN.
H.R. 158: Mr. MANZULLO.
H.R. 2995: Mr. TOWNS and Mr. TORRES.
H.R. 3024: Mr. THOMPSON.
H.R. 3568: Mr. BALDACCI.
H.R. 3778: Mr. PITTS.
H.R. 3956: Mr. PALLONE.
H.R. 3988: Mr. BALDACCI.
H.R. 4126: Mrs. THURMAN.
H.R. 4332: Mr. NORWOOD.
H.R. 4344: Mr. PICKETT, Mr. PORTMAN, Mr. BAESLER, and Mr. GIBBONS.
H.R. 4467: Mr. NEAL of Massachusetts and Mr. PASCRELL.
H.R. 4683: Mr. PORTMAN and Ms. WATERS.
H.R. 4729: Mrs. LINDA SMITH of Washington.
H.R. 4761: Mr. BEREUTER.
H.J. Res. 40: Mr. KILDEE.
H. Con. Res. 322: Mr. BLUMENAUER.
H. Res. 554: Mr. PAPPAS, Mr. WATTS of Oklahoma, Ms. RIVERS, and Mr. MCGOVERN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

81. The SPEAKER presented a petition of Compton City Council, Compton, California, relative to a Resolution of the City Council of the City of Compton Opposing Mandatory Social Security Coverage for State and Local Employees (Resolution No. 19,214); to the Committee on Ways and Means.

82. Also, a petition of the United Seniors Association, relative to Urging the Congress of the United States to enact H.R. 857; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

AUTOMOBILE LEASE ADVERTISING ACT OF 1998

SPEECH OF

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, October 11, 1998

Mr. LAFALCE. Mr. Speaker, automobile leasing is a growing phenomenon that is supplanting traditional new car sales and dominating automobile advertising. A decade ago consumer leases represented less than 5 percent of all new car transactions. Today, more than a third of all new automobile transactions involve leases. By the year 2000, auto industry experts predict, leases will constitute over half of all new car transactions and a significant portion of used car transactions.

This rapid growth in automobile leases has generated a concomitant increase in lease advertising. Leases now figure more prominently than traditional auto sales in advertising in my Congressional district in Western New York, in the Washington, D.C. market and, I suspect, in most major markets across the country.

While automobile leases can be beneficial for many consumers, current advertising practices make it virtually impossible for consumers to make intelligent, informed choices between leasing and buying options, or even among competing lease options. Unlike other major household purchases, consumers have little or no basis to evaluate comparable lease opportunities. Therefore, I am today introducing legislation that will reform the advertising of auto leases and permit consumers to comparison shop. My legislation, the "Automobile Lease Advertising Act of 1998", amends the Consumer Leasing Act of 1976 to provide consumers with more consistent, relevant and timely information about auto lease terms and costs. It does not dictate how leases must be structured or transacted, but only requires that dealers provide more relevant and understandable information about the terms of advertised leases.

I. THE PROBLEMS IN LEASE ADVERTISING

Auto leases are, by their nature, far more complex and confusing than traditional auto sales. Lease advertising, rather than clarifying and simplifying lease terms, instead tends to confuse and obfuscate. Advertisements feature only the most attractive lease terms while hiding or omitting significant consumer costs and liabilities. Key elements of leases—the vehicle capitalized cost, residual value and lease interest rate—lack standardization and are easily manipulated to hide actual costs. Detailed information on actual lease terms is generally unavailable to consumers until they are in the dealership and engaged in lease negotiations. And, even then, key cost disclosures required by Federal law are typically not provided until just before lease signing.

The entire process provides information far too late to permit consumers to make intelligent choices between leasing and buying an automobile or between competing lease opportunities.

As a special task force of State Attorneys General commented to the Federal Reserve Board in 1995, current lease disclosure standards tend to "sanction the hiding of valuable information from consumers."

It is lease advertising that poses the greatest potential for confusing and deceiving consumers. The problems of lease advertising are visible every day—in television advertisements that boldly promote attractive monthly lease payments while scrolling other costs and conditions illegibly across TV screens, print advertisements that hide important lease terms in confusing tiny print, and advertisements generally that fail to disclose substantial consumer costs and liabilities. While one of the worst advertising practices—highlighting "no downpayment" when significant upfront payments are in fact required—is less common in lease advertising as a result of recent enforcement actions by the Federal Trade Commission and State Attorneys General, other abusive practices continue. Many advertisements feature low, "come on" monthly lease payments that are artificially reduced through a number of common devices. The advertisement of extended or irregular lease terms, rather than the 24- or 36-month terms typically offered consumers, can misleadingly lower monthly payment amounts. Substantial required downpayments, typically hidden in small print, can produce the same result. Mileage allowances that are considerably below what most drivers require or accept can inflate vehicle residual values and also reduce monthly payments, while hiding substantial lease-end excess mileage charges. Advertisers often employ all of these devices.

Clearly anything goes in lease advertising under the current system. Advertisers have one purpose in mind and one purpose only—getting customers into the dealership where they can potentially be influenced into signing any lease terms. There is no desire to adequately inform or educate consumers. The primary purpose of lease advertising is to bait consumers with misleading or incomplete information that minimizes real costs and makes it virtually impossible to compare alternative deals on comparable vehicles.

In their comments to the Federal Reserve the State Attorneys General expressed concern that "automobile lease advertisements have, for several years, generally failed to adequately disclose material information consumers need to make informed decisions." The Federal Trade Commission echoes this sentiment, stating that current "misleading advertisements may significantly hinder comparison lease shopping, in direct contradiction of the purposes of the Consumer Leasing Act."

II. THE PROVISIONS OF THE LEGISLATION

The legislation I am introducing today addresses these problems by requiring that more relevant and uniform information be provided in lease advertisements and that more detailed information on actual lease terms be made available earlier in the lease process. These changes would empower consumers by providing more of the information they need to compare lease options and make intelligent decisions.

My legislation does this in a number of ways. First, lease advertisers that include a monthly lease payment would have to include a calculation of the payment using a formula that includes several fixed lease terms. These are relatively standard terms found in consumer leases, but often manipulated for purposes of advertising: a lease term of 24 months, no downpayment or capitalized cost reduction requirement, and a mileage allowance of 12,000 miles per year (or 24,000 miles for a 24-month lease). This eliminates some of the artificial differences between advertised lease payments, emphasizing more basic cost differences between competing leases. Advertisers could also included a different monthly payment amount in an advertisement for the same vehicle, as long as it is not featured more prominently than the required information, and provided they also identify the varying lease terms—a required downpayment, a longer lease term, etc.—that explain the difference between the two payment amounts.

This change would provide a relatively uniform monthly payment amount that makes it easier for consumers to compare advertised leased payments for similar, comparably-priced vehicles. It would also help inform consumers of the potential options available in auto leases, of how changes in key terms will affect monthly payments and of the potential costs and penalties that may be hidden in otherwise attractive lease payments. This proposal would encourage the type of advertisement used recently by a Chevrolet dealer in my district that featured six vehicle models on a chart with monthly payments for each vehicle based on a uniform lease term, no required downpayment and 12,000-mile annual mileage allowances. Additional columns on the chart showed how this payment would change with a higher downpayment or a longer lease term. A final column on the chart provided the alternative purchase price for each vehicle. This is an excellent example of advertising that educates rather than confuses consumers.

Second, my bill would require that automobile dealers post in a conspicuous location in their dealership a listing of all customer incentives available to consumers on vehicle models they offer. This would include special interest and lease rates, cash rebates, special vehicle residual amounts, regional promotions and other special offers available for both

lease and purchase transactions by auto manufacturers, banks, leasing companies and local dealers. This is public information that consumers typically do not have and which often is offered only within the context of backroom deals. This proposals would allow interested consumers to see and compare all the potential incentives available on different vehicle models to see where they can find the best deals and to help them decide between leasing and buying a vehicle.

Third, my bill also requires automobile dealers that advertise monthly lease payments, or participate in national or regional promotions that feature lease payments, to make available to the public, upon request, a brief, written summary (which should, I expect, be not more than one brief page) of the essential lease terms and costs used in computing the advertised lease payment. Since the dealer has sought to benefit by publicizing the monthly lease payment, it follows that interested consumers should be able to see the other relevant terms used to calculate that payment. This would provide consumers with more detailed information earlier in the lease process and give them a more equal position in lease negotiations. And it would give consumers more detailed information that they could take to other dealerships to compare available lease options.

This proposal would achieve in auto leasing the same basic principles identified in recent House and Senate hearings regarding the reform and simplification of RESPA mortgage disclosure requirements—making it easier for consumers to comparison shop by providing more detailed information earlier in the sales process.

Fourth, the bill would incorporate in current law several important changes in lease advertising advocated by the Federal Reserve Board and the Federal Trade Commission. It includes Federal Reserve proposals to increase the maximum contractual obligation amount of leases subject to disclosure and advertising requirements of the Consumer Leasing Act to accommodate the higher cost leases routinely offered in today's marketplace. It would clarify the "clear and conspicuous" disclosure requirement in current law with more detailed "reasonably understandable" standards implemented by the Federal Trade Commission in its 900 Number rule and other industry advertising orders. It includes a Federal Reserve proposal to expand the simplified 800-Number disclosure option in current law to television as well as radio advertisements. It strengthens the FTC's authority to enforce lease advertising requirements by seeking civil penalties in federal court. And it would codify the prohibition, enunciated in recent FTC enforcement actions, against advertising that no downpayment is required on a lease when substantial undisclosed payments are required at lease signing.

Finally, my bill would clarify that the requirements of the Consumer Leasing Act apply not just to television, radio and newspaper advertising, but to all potential lease advertising in publications, videotapes, toll-free telephone numbers, newsletters and commercial mailing and fliers. It would also bring the Consumer Leasing Act into the electronic age by extending disclosure requirements to advertising on the internet and in computer programs.

III. CONCLUSION

Other than purchasing a home, buying or leasing an automobile is one of the most important consumer transactions for most American households. It shouldn't be a confusing or an intimidating experience. Consumers have a right to know all the relevant costs and details before signing a lease. And they deserve to have adequate information to comparison shop for auto leases in the same way they shop for a mortgage or for any major consumer purchase.

My legislation would empower consumers by requiring that they be given more consistent and detailed information about auto leases in a manner that is timely and that allows them to make careful comparisons and intelligent decisions. It does not dictate how leases must be structured or transacted, only that dealers make available more relevant information about the costs and terms used in a lease. This simply extends the principles of truth in advertising to the automobile leasing process.

I believe this is important and needed legislation that can transform the entire auto leasing process in ways that will benefit both consumers and automobile dealers. I urge my colleagues to give careful consideration to the changes and initiatives proposed in this legislation.

CONSUMER AUTOMOBILE LEASE ADVERTISING ACT OF 1998

Sponsor: Rep. John J. LaFalce (NY).

Bill Number: H.R. ; Introduced October 10, 1998 and referred to the Committee on Banking and Financial Services.

SECTION-BY-SECTION SUMMARY

Section 1. Short title

Consumer Automobile Lease Advertising Act of 1998

Section 2. Purpose

To amend the Consumer Leasing Act of 1976 (Chapter 5 of the Consumer Credit Protection Act—"Truth in Lending Act") to simplify and standardize automobile lease advertising in order to provide consumers with more relevant and easily understood information regarding the terms and costs of lease offerings earlier in the leasing process and permit consumers to compare lease and purchase options and comparison shop among lease opportunities.

Section 3. Applicable consumer leases

Increases the total contractual obligation of leases that are subject to the consumer disclosure and advertising requirements of the Consumer Leasing Act to $50,000 (from $25,000 set in 1976) to accommodate the higher cost lease transactions now routinely offered. Requires annual adjustment of the maximum obligation amount to reflect changes in the consumer price index.

Section 4. Automobile lease advertising

Clarifies and Updates Current Lease Advertising Disclosure Requirements

Requires that lease transactions be clearly identified as a lease in both the audio and video portions of television advertisements in addition to print advertisements.

Clarifies that disclosure requirements apply to all lease advertising, including television, radio, videotapes, toll-free telephone numbers, publications, newsletters and commercial mailings and fliers.

Extends disclosure requirements and standards to advertisements in computer programs and in web pages on the Internet.

Section 5. Alternative lease disclosures

Permits television advertisements to use the simplified disclosure option in current law for radio advertisements, thereby permitting an advertiser, in lieu of making all required disclosures in an advertisement, to prominently identify a toll-free 800 number in the advertisement that permits consumers to obtain all required disclosures by telephone.

Requires that alternative disclosures by toll-free telephone numbers be in a format that permits information to be repeated, that is free of marketing information and that permits consumers to request the information in writing and by mail.

Section 6. Advertisement for automobile lease

Prohibited practices

Prohibits a lessor from advertising that no downpayment is required when the lessor requires a capitalized cost reduction payment, acquisition fee, vehicle trade-in or other significant up-front payment to be made at lease signing that is not refundable to the lessee.

Prohibits lessor from advertising payment amounts or other lease terms that they do not routinely or customarily offer or make available to consumers, that they do not intend to make available generally to customers as part of any promotion, or that they customarily offer or make available only to selected or preferred customers.

Advertised lease payment amounts

Requires that any lease advertisement that includes a monthly lease payment amount for a vehicle model include a calculation of the monthly payment amount using a formula established in regulation by the Federal Reserve Board that includes the following lease terms:

Vehicle Price: the vehicle capitalized cost without adjustment for any down payment, capitalized cost reduction, vehicle trade-in or other required payment by the lessee at or before lease signing;

Lease Term: a lease term of 24 months; and

Mileage Allowance: a mileage allowance of 12,000 miles for each year of the two-year lease term (or 24,000 miles) before excess mileage charges may be imposed.

Requires that a lease advertisement that states a monthly payment amount also include a clear and conspicuous statement that the payment amount applies to a lease with a 24-month term, with no required downpayment and with an annual mileage allowance of 12,000 miles.

Permits an advertiser or dealer to advertise additional lease payment amounts for a vehicle model that are different from the payment amount required to be advertised, provided that any additional payment amount does not appear more prominently than the required payment amount and the advertisement includes additional disclosures that explain the difference between the payment amounts.

Section 7. Availability of written information

Requires that an automobile dealer that advertises a monthly lease payment amount, or participates in any national or regional promotion that includes an advertised monthly lease payment amount, make available to consumers at the dealdership a brief written summary of the essential costs and terms associated with the advertised lease.

Requires an automobile dealer that offers consumer leases to post in a conspicuous location in the dealerships a listing by vehicle

model of all customer incentives, including special interest or lease rates, rebates, vehicle residual values, regional programs and other special offers and promotions that are available for both lease and purchase transactions.

Section 8. Clear and conspicuous disclosure

Clarifies the "clear and conspicuous" requirement in current law for required disclosures in automobile lease advertisements by incorporating more specific "reasonably understandable" standards used by the Federal Trade Commission in the 900 Number Rule and other industry advertising orders. Under these standards, any required disclosures that appear in writing in print and video advertisements, must be sufficient tpye size, shade, contrast and prominence to be readily noticeable, readable and comprehensible to an ordinary consumer; in the audio portions of television, radio and videotape advertisements, must be delivered in a volume, cadence and location, and for sufficient duration, as to be readily noticeable, hearable and comprehensible to an ordinary consumer; in advertisements on the internet, must appear in a type size, contrast, prominence and location as to be readily readable and comprehensible to users and separated from marketing and promotional information.

Requires that nothing contrary to, inconsistent with or in mitigation of any required disclosures be used in any advertisement and that no audio, video or print technique be used that will obscure or detract from the communication of any required disclosures.

Section 9. Administrative enforcement

The section clarifies that a violation of the lease advertising sections of the Leasing Act are to be considered unfair and deceptive acts or practices under the FTC Act, thus providing the FTC with the same enforcement authority it currently exercises in enforcing violations of its trade regulation rules. This would permit the FTC to bring court actions for civil penalties in the first instance (rather than the FTC having to first place violators under consent agreements in order to enforce these agreemetns).

Section 10. Civil liability

Increases the maximum potential liability of a lessor for punitive damages in civil actions for violations of the Consumer Leasing Act from $1,000 to $10,000.

Section 11. Regulations

Directs the Federal Reserve Board to issue regulations to implement the changes made by the Act within 6 months of the date of enactment.

Directs the Board to issue regulations and staff commentary, as necessary, to update and clarify the requirements of the Consumer Leasing Act as amended by the Act and to facilitate compliance with or prevent circumvention of any amendment made by the Act.

PROJECT UPLIFT

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mrs. WILSON. Mr. Speaker, I wish to bring your attention to a project I my district which has received Presidential recognition as a "Promising Practice" that will improve education and career opportunities in mathematics, science, and engineering for minority youth in New Mexico.

Project Uplift produces a regular half-hour television program broadcast across New Mexico that teaches young people in every part of our state about careers in high technology. In addition, the project sponsors the annual High Technology Career Preparedness Youth Institute at Sandia National Laboratory. Through hands-on activities, this week-long institute introduces young people to professionals in a variety of fields relating to the environment, medicine and health, advanced computing and robotics, advanced manufacturing and astronomy.

Another important initiative of the project is the annual Rio Grande High Technology Minority and Women Job Fair. Each fall, this job fair draws over 600 university students from all over New Mexico majoring in engineering, physical and life sciences. Room and board is provided for these students who then have the opportunity to meet potential employers from across the country.

Project Uplift's success has even garnered international attention through the United Nations Educational, Scientific and Cultural Organization (UNESCO). UNESCO officials were impressed with the success of Project Uplift in reaching diverse and remotely situated people.

Project Uplift has done an excellent job of addressing New Mexico's diverse population and rural character. I am proud to highlight their accomplishments and encourage their future success.

AFFORDABLE HEALTH CARE FOR THE NEAR ELDERLY ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. DREIER. Mr. Speaker, I am concerned by the large number of near-elderly individuals who cannot afford insurance. According to a recent study by the General Accounting Office (GAO), those without health insurance face a nearly impossible task of obtaining affordable and adequate health care. For many, their age, health status and income force them to go without health care until they reach 65 when Medicare coverage begin. The GAO concluded that the problem will only worsen as more individuals retire early without health insurance coverage from their employer.

In response to this growing problem, President Clinton proposed permitting the near-elderly to buy into the Medicare program by paying a large annual premium. To qualify for Medicare, elderly couples would have to pay nearly $10,000 a year which is too expensive for many retirees on fixed incomes. In a recent study, the National Coalition on Health Care concluded that the high annual premium means that the President's proposal would have "little impact" in providing coverage to the 3 million near-elderly individuals without health insurance. Furthermore, the Congressional Budget Office estimates that only 320,000 individuals, approximately 10% of the affected group, would buy into Medicare. In addition, the President's plan may also hasten Medicare's solvency crisis. The American Association of Retired Persons recently expressed their concern that the proposal could threaten the current Medicare program.

I believe that Congress can expand access to affordable health care for the uninsured near-elderly without harming Medicare. Today, I have introduced H.R.—, which allows the near-elderly to enroll in the Federal Employees Health Benefit Program, which gives participants a wealth of health care choices at lower prices. To participate, a near-elderly individual would pay the total cost of the premium, the employees share and the federal subsidy, which is up to $2,000 less per year than the President's proposal. The lower premium could mean that more uninsured individuals would enroll in a health plan that provides services, like prescription drugs and dental care, not offered by Medicare. My bill also allows younger Americans to access Medical Savings Accounts to prevent a loss of health insurance before they qualify for Medicare.

Mr. Speaker, this legislation addresses the need of three million uninsured near-elderly individuals who need an affordable health care option. I believe that this common-sense approach can help the vulnerable near-elderly without requiring them to sacrifice their entire pension for health care.

NORTH QUEENSBURY VOLUNTEER FIRE COMPANY, INC. CELEBRATES 50 YEARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. SOLOMON. Mr. Speaker, when one walks into my Congressional office in Washington he or she immediately notices a prominent fixture in the reception area—the collection of fire helmets representing the many volunteer fire companies in my district that stand ready at all times to protect the lives and property of their communities' residents.

Volunteer fire companies epitomize the overwhelming sense of community that exists in the small towns and villages of the Hudson Valley of New York. The sense of pride, spirit of volunteerism and undeniable camaraderie among neighbors is one of the things I so relish about my time spent at home in the 22nd Congressional District. This spirit is no more evident than in North Queensbury, New York and its beloved volunteer fire company.

This year the North Queensbury Volunteer Fire Company is celebrating its 50th year of all-volunteer service to the North Queensbury community. As part of the continuing 50th anniversary celebration, on October 17 the fire company will be dedicating its new firehouse.

Mr. Speaker, as a former fire volunteer myself, it is a great honor for me to invite my fellow colleagues to join me in commemorating this joyous event, and in doing so recognize the outstanding contributions the North Queensbury fire volunteers give to their neighbors.

In a rural area like the 22nd District of New York, fire protection is often solely in the hands of volunteer companies. I cannot say

enough about the many lives and millions of dollars of property that have been saved due to the efforts of the North Queensbury volunteers. But the value of such a vital public service can hardly be identified in terms of dollars and cents. The willingness of these volunteers to selflessly place themselves in harm's way to ensure the preservation of their neighbors' lives and property is worthy of the highest praise.

Mr. Speaker, I have always been one to judge people by the contributions they make to their community. To that end, the men and women who comprise the North Queensbury Volunteer Fire Company are truly great Americans! I am truly proud of this organization and its spirit of volunteerism that is such a central part of the American way of life. Therefore, it is with great pride, Mr. Speaker, that I ask all members to join me in paying tribute to them on their 50th anniversary.

CELEBRATING THE 125TH ANNIVERSARY OF THE FIRST ASCENT OF MT. WHITNEY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the 125th anniversary of the first ascent of Mt. Whitney, the highest mountain peak in the continental United States at 14,494 feet, located in California's Inyo County. Having climbed Mt. Whitney in 1986 with my dear friend, Hulda Crooks, I wanted to share some of the storied history of this majestic mountain with my colleagues.

In the early 1870's, as the Owens Valley community first began to attract settlers, local residents often visited nearby Soda Springs to fish, hunt, and to escape the summer heat. In August 1873, a large group of Lone Pine locals were camping in this area when three of them decided to take a hike up to the summit. Previous attempts to climb this mountain had been made by Clarence King, in party with a California Geological Survey expedition sponsored by Josiah Whitney. King identified the mountain and named it "Mount Whitney" in 1864. He claimed to have reached the summit in 1871, but it was soon discovered that he missed the mark and accidentally climbed another peak.

The "Three Fishermen" (locals Charley Begole, Johnny Lucas and Al Johnson) credited with Whitney's first ascent made the hike from Soda Springs to the summit and back in one day on August 18, 1873. They christened the mountain "Fishermen's Peak," which touched off a controversy that lasted several years. The Lone Pine residents were not in favor of the name "Mount Whitney," since they did not share a high opinion of Mr. Whitney. Local residents petitioned in favor of the names "Fishermen's Peak," "Fowler's Peak," or "Dome of Inyo," anything but "Mount Whitney," which is the name that stands today.

Undaunted by the unwanted name, local residents raised funds and built a trail to the summit in 1904. Mr. Gustave F. Marsh of Lone Pine, was the engineer who led this effort. He also served as contractor and supervisor for the Smithsonian Institute in 1909 when the trail was repaired and the summit shelter was built. Local residents again pitched in to raise funds for this effort. As one ponders this sequence of events, the baffling question is, "What motivated these early settlers to build a trail?" There was not a large tourist industry in the area at that time; there were no automobiles; and the only people interested in mountaineering were college professors or researchers—people of science and letters. The summit hut was originally financed by the Smithsonian for astronomical and atmospheric research purposes.

In contrast, the early residents were largely farmers and miners. And yet, as the trail and hut stand today, no one really knows how many hundreds of thousands of people from all walks of life and from all countries of the world have climbed to the summit of Mount Whitney. Without the efforts of the first settlers, would this have been the reality today? Also, very little has ever been mentioned of the Native Americans, who knew of the peak and in their world, called it "The Old One," or "The High One."

On August 18, 1998, as a tribute to these early settlers, another group of local residents climbed Mount Whitney to pay honor to the contribution that these pioneers made, and to bring recognition to their efforts. Several descendants of the original group still live in the Lone Pine area.

I can well remember donning a backpack and sleeping bag and hitting the trail with Hulda Crooks, better known on the mountain as Grandma Whitney, in August 1986. A friendship was born over those days that has been among the most special and enduring of my life. Because of her legacy, Congress passed legislation and Hulda returned to Mt. Whitney in 1991 for the announcement that Crooks Peak, adjacent to the Whitney summit, would forever bear her name. Hulda was a mentor and teacher to me, personally, and remained one of my dearest friends over the years until her passing last November.

Mr. Speaker, I ask that you join me and our colleagues in paying tribute to the men and women who have provided Mt. Whitney with its rich and textured history. Without any question, for every person who has ever climbed or tried to climb this magnificent peak, Mt. Whitney holds its own special memories, and its own meaningful place in their life.

RECOGNIZING SYRIA'S LIBERAL POLICY OF JEWISH EMIGRATION

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. CAMPBELL. Mr. Speaker, I come to the floor today to recognize with commendation that the country of Syria followed through on its promises regarding Jewish emigration over the past six years.

Beginning in 1992, without fanfare, Syria eased its strict travel and emigration policies on its Jewish community. Numbering around 100,000 at the turn of the century, the Syrian Jewish community numbered only approximately 5,000 by 1992. Up until 1992, Syrian Jews could only travel outside of the country individually, and only if family members remained behind. Between April and October of 1992, however, approximately 2,600 of this 5,000 were allowed to emigrate from Syria.

In October of 1992, Syria temporarily suspended this eased emigration policy. However, in December of 1993, Secretary of State Warren Christopher visited the country, and in a goodwill gesture during this visit, President Assad informed Secretary Christopher that all remaining Jewish families were free to leave Syria. The liberal Jewish emigration procedures soon resumed, and the Department of State informs me that all but 118 Jewish individuals have been granted exit visas and left Syria. The majority of these families decided to resettle in the United States, specifically in Brooklyn, where a thriving Syrian Jewish community of about 35,000 exists. The State Department reports none of these remaining Syrian Jews have reported Syrian government persecution, and that many plan to emigrate soon.

I was first made aware of Syria's emigration policy towards its Jewish community when I met with President Assad this past June in Damascus. In discussion, President Assad referenced this emigration policy as an example of Syria's continuing good faith effort to propel forward the Middle-East peace process. He did not, but some in the Syrian government did, observe that no statement of acknowledgment of Syria's following through on its emigration commitment had ever been entered into the CONGRESSIONAL RECORD. I wish to correct that oversight now.

Emigration is a basic human right that all responsible nations respect and allow. I commend President Assad for joining the community of nations that seek to guarantee this human right. In an attempt to create a conducive atmosphere toward fostering the peace process, President Assad allowed Syrian Jews to emigrate. Six years have passed since this policy began. It is time that recognition and approbation be properly given.

IN RECOGNITION OF DONALD LEE LARGE

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. RILEY. Mr. Speaker, I rise today to pay tribute to Donald Lee Large, a great Alabamian. Don Large recently retired from the Falk Corporation in Auburn after more than 23 years of loyal and dedicated service.

Don Large directed the Falk Corporation through numerous changes over his tenure and has left behind an impressive legacy. The most notable of these is the changeover from batch manufacturing to cellular manufacturing. This change required all new equipment, new processes, and was made possible by the culture established years before. Don worked extremely hard in recruiting quality people, setting up training programs, and establishing a

culture based on the fundamental ideas of "mutual trust and respect". During this three year project finishing in 1995, Falk did not miss a single shipment.

Don has spent tireless hours dedicating his time and energy to better the community in which he lives, and the entire state of Alabama. Don has been on the Board of Directors for the United Way, Chamber of Commerce, Junior Achievement, and Chairman of the Industrial Relations Committee.

In addition to his community service, Don and his wife Barbara taught Ballroom dancing to over 1000 people, including many dignitaries and ranking public officials.

Mr. Speaker, I am here today to recognize Mr. Large for his outstanding service to his industry and community. He truly leads by example and hard work, and is a model for all of us.

INTRODUCTION OF THE CONSUMER PROTECTION AGAINST HUMAN TELLER FEES ACT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Ms. DELAURO. Mr. Speaker, I have learned that some financial institutions are charging teller fees to customers who want or need to see a bank teller. In effect, they will be fined for not using an automatic teller machine. This is patently wrong, and today I am introducing the "The Depository Institution Customer Protection Act" that would prohibit financial institutions from charging these fees.

Customers should be able to converse with bank and credit union representatives without being charged to access their own money or to make a deposit. Some customers may be unable to use ATMs, especially if they are blind or using wheelchairs. And no ATM or automated phone system can answer every question about an account. Seniors on fixed incomes, families living on today's pitifully low minimum wage, and blind or disabled customers—including veterans—will be penalized for the "privilege" of making a deposit or taking funds out of their account. Even the most sophisticated customers sometimes need to speak with a teller. Now banks will punish individuals who are simply asking for assistance.

My own mother is 85 years old and is still an active public servant. Yet I recognize the difficulty she has interacting with today's technology. I am confident that many of my colleague's parents—and perhaps some of my colleagues themselves—have difficulty using automatic teller machines.

Like many of my colleagues, I have been hearing from constituents who feel bombarded with automatic teller machine user fees. Now, customers will be charged for discussing a transaction with a human teller too. Financial institutions are squeezing money out of customers and other consumers—money that should be used to improve our economy, not line the pockets of our wealthiest institutions.

This user fee hurts the customers with limited means the most. These consumers may not be able to access electronic commerce, yet they'll be punished by the institution that holds—and makes money off—their assets.

The bill I am introducing today will prohibit banks and credit unions from charging these onerous fees.

I urge my colleagues to stand up for consumers, and protect our most vulnerable citizens from unfair human teller fees. Please join me in this effort by cosponsoring the "The Depository Institution Customer Protection Act."

A TRIBUTE TO THE CENTER FOR MILITARY AND PRIVATE SECTOR INITIATIVES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. LEWIS of California. Mr. Speaker, while the end of the Cold War eased international tensions, it led to a significant downsizing of the U.S. armed forces. Nearly one tenth of our country's population, or 26 million people, have served in uniform. Over two million have left military service since the end of the Gulf War. Approximately 275,000 veterans of military service are being discharged each year, projected well into the next century. Once again, as in previous post-war periods, American employers have the opportunity to access men and women returning to civilian life in large numbers.

Unlike previous periods, when American were drafted for service, these men and women are volunteers. Surprisingly, the harsh reality for many of them is that a successful military career is not a guarantee of gainful employment in the private sector. This is a startling phenomenon, especially considering the extensive experience, diverse talents, and strong work ethic of military professionals. Clearly, much needs to be done to uncover and address the reasons for the continued underutilization of this highly trained and motivated force.

Indeed, a comprehensive survey conducted for the Joint Chiefs of Staff by a national executive search firm, Wesley, Brown and Bartle (WB&B) reports that stereotypes and myths caused businesses and professional recruiting services to discard an alarmingly high percentage of resumes submitted by our veterans.

There are disturbing dimensions to the problem. The Bureau of Labor Statistics reports that the jobless rate for male veterans discharged since 1994 is seven percent, considerably higher than the current national average of 4.5 percent of all Americans. The rate of unemployment for female veterans is 5.9 percent. Even more alarming is the state of underemployment of former military. Our downsizing of the Army by 60 percent since the Gulf War has thrust hundreds of thousands of early retirees from military service into the private sector. The WB&B survey showed that they are not being welcomed as they should be by civilian employers, perhaps only because only one in every 147 of them has prior active duty military service, compared with one in every ten after World War II. Indeed, retired Admiral Stanley Arthur, the Navy's top commander in the Gulf War, said that "the military is no longer an institution with which most—even many—people can identify."

A random survey of 1700 recently transitioned military personnel found most of them to be active job seekers. More than half of them sent out at least 50 resumes. Another 30 percent distributed more than 100 resumes. Three in every four of them received not one reply. Only one of about every six who heard back received even a single job offer. Among those who accepted, 80 percent were found to earn less than $20,000.

Wesley, Brown and Bartle is to be commended for founding the Center for Military and Private Sector Initiatives which was established to help military men and women more effectively transition from active duty to civilian life. Through the Center, corporate America has a rare opportunity to forge partnerships that will positively impact the transition of military professionals and enhance America's workforce.

Mr. Speaker, the Center for Military and Private Sector Initiatives is to be commended for providing American business with the value that former military professionals bring to the workplace, making corporate America more competitive. When American businesses capitalizes on the value of the military experience, America wins.

SALUTING THE EMPLOYEE BENEFIT RESEARCH INSTITUTE ON ITS 20TH ANNIVERSARY

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. POMEROY. Mr. Speaker, I rise to salute one of our Nation's leading public policy institutes on the occasion of its 20th anniversary. For two decades now, the Employee Benefit Research Institute (EBRI), under the outstanding leadership of its president Dallas Salisbury, has been providing trusted data and analysis on some of the most important public policy issues of our time—Social Security reform, health coverage and quality, and the changing world of private pensions.

As one who has made retirement and health security issues the core of my legislative agenda, I have benefited many times from EBRI's exceptional and nonpartisan research and analysis. I have relied on EBRI to provide me with the very latest findings and developments, and I have called on their stable of experts many times for objective data and analysis as I have begun work on a new legislative initiative.

I want to commend EBRI in particular for two of its most recent endeavors. One was the central role EBRI played in organizing this year's National Summit on Retirement Savings, which highlighted the critical issues of saving and planning for retirement. The second is EBRI's recent development of a highly sophisticated computer model of the Social Security system that is now the leading tool in the country for analyzing the effects of Social Security reform proposals.

Mr. Speaker, again let me congratulate the Employee Benefit Research Institute for 20

years of outstanding work. I look forward to EBRI's continued contribution to the public policy of our Nation.

INTERNATIONAL ANTI-BRIBERY AND FAIR COMPETITION ACT OF 1998

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. DINGELL. Mr. Speaker, we all have a strong interest in seeing that there is a level playing field on which U.S. business and U.S. workers can compete in world markets.

The bill are considering today, H.R. 4353, points out just how unlevel that playing field can be. In May of 1976, Congress received from the Securities and Exchange Commission an extensive "Report on Questionable and Illegal Corporate Payments and Practices" that revealed corrupt foreign payments by over 300 U.S. companies involving hundreds of millions of dollars and the falsification of accounting records and the deceit of auditors.

Since 1977, U.S. law has made it a crime from American businessmen to bribe foreign government officials to obtain business contracts. Yet, Germany and other countries do not just fail to prohibit bribery on the part of their business representatives, they make it a tax deductible expense.

Last December, 33 of our major trading partners signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Under this agreement, our major trading partners commit, for the first time, to make business-related bribes to foreign officials a crime under their respective legal systems.

H.R. 4353 expands and strengthens the Foreign Corrupt Practices Act (FCPA) to implement U.S. obligations under the OECD convention. It expands the FCPA to include bribes to foreign public officials that are made to secure "any improper advantage." The bill also expands the FCPA to cover not only U.S. businesses and issuers of securities, but also any foreign natural or legal person that engages in a prohibited act within the territory of the United States.

In addition, this legislation expands the definition of public official in the FCPA to include officials of public international organizations. It makes foreign employees and agents of issuers and domestic concerns subject to criminal penalties in the same way that U.S. citizens are. This legislation also amends the FCPA to provide for jurisdiction even when U.S. businesses and nationals engage in the offering of bribes wholly outside the United States.

Mr. Speaker, this legislation contains strict monitoring and reporting requirements to ensure that our OECD partners fully implement the anti-bribery convention under their laws. It requires that the Administration report to Congress concerning its efforts to strengthen the Convention by extending the prohibitions contained in the Convention to cover bribes to political parties, party officials, and candidates for political office.

Mr. Speaker, the Senate has already passed legislation ratifying and implementing the anti-bribery convention. Although we are rapidly approaching the end of this Congress, it is my hope that Congress can complete action on this important legislation this year.

However, the legislation before us also contains matters having to do with international satellites, which are unrelated to the implementation of the anti-bribery convention. These satellite provisions are not in the implementing legislation passed by the Senate. It is my sincere hope that these extraneous satellite provisions will not prevent the House and Senate from sending the President legislation implementing the anti-bribery convention, before this Congress adjourns.

The Commerce Department reports that there have been significant charges of bribery associated with international commercial contracts valued at more than $100 billion since 1994. Mr. Speaker, bribery hurts American business and American workers who must compete in the world market place. American business and American workers need the protections the OECD Convention provides, and they need them now.

If we fail to implement the anti-bribery convention because of an ability to reach agreement on extraneous matters, American business and American workers will pay the price. Delay on our part will only give our OECD partners an excuse to delay their implementation of these important anti-bribery commitments.

Mr. Speaker, swift action by this House, and this Congress, is needed, so the United States can set an example for our OECD partners to ratify and fully implement this important convention, as well. I hope my colleagues will give this important legislation their strong support.

PASSAGE OF TAX EXTENSION LEGISLATION

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Ms. DELAURO. Mr. Speaker, I am pleased to support this tax extender legislation, which will continue important tax benefits for businesses and individuals.

This bill extends the research and development tax credit, which encourages the development of cutting edge technology and supports the creation of high paying, good jobs in states like Connecticut. From the defense industry to the biotech industry to software development, this tax credit plays an important role in maintaining US leadership in the world economy and helping our firms compete against their global rivals.

I am also pleased that this bill extends the Work Opportunity Tax credit, to create incentives that help businesses, particularly small businesses, afford new staff and help move people from welfare to work. Likewise, the permanent extension of income averaging for farmers will help family farms to sustain their businesses through the swings of income which so many farms experience from year to year.

This bill also accelerates the phase-in of duductions of health insurance premiums for the self-employed. Under this bill, 75% of the cost of health insurance can be deducated in 2002, and 100% can be deducated in 2003. For too many self-employed individuals find the cost of health insurance prohibitive, and this legislation will assist them in obtaining the health coverage that they and the families which depend on them need and deserve.

I am pleased to support this bipartisan bill, which will strengthen businesses, particularly small businesses, and help them to improve their competitiveness and to hire more employees at livable wage. And I look forward to working with my colleagues in the early months of the next legislative session to strengthen the Social Security retirement Trust Fund, so that we can enact broad-based tax relief for all working families.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

SPEECH OF

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. CLEMENT. Mr. Speaker, I rise to lend my support for copyright term extension. Title I of S. 505 extends the term of copyright protection by twenty years, from the life of the artist plus 50 years to the life of the artist plus 70 years. This copyright term extension will bring the United States in line with most of the rest of the world.

However, Title II of this bill contains a gross injustice. Title II, inappropriately titled the "Fairness in Music Licensing Act", is anything but fair. This provision exempts restaurants smaller than 3,750 square feet and retailers smaller than 2,000 square feet from paying royalties for radio and television. As I previously argued on the floor of the House when this issue was first raised, the so-called "Fairness in Music Licensing Act" compromises the intellectual property rights of this nation's songwriters and assaults their ability to make a living. According to the Congressional Research Service, this provision would allow more than 70% of bars and restaurants to use radio and TV music for free. The earnings of songwriters, composers, and publishers stand to be reduced by tens of millions of dollars annually. The average songwriter, many of whom live in my hometown of Nashville, makes less than $5,000 annually from music royalties. Yet, by supporting this provision, we are choosing to take from songwriters and give to restaurant owners, who make on average $45,000 annually.

Title II of this bill also violates our International treaty responsibilities. One or more of our trading partners will file a complaint in the World Trade Organization. As the Secretary of Commerce, the Honorable William Daley, so aptly observed, ". . . we know that our trading partners will claim that it is an overly broad exception that violates our obligations under the

Berne Convention for the Protection of [Artistic and] Literary Works and the Agreement on the Trade-Related Aspects of Intellectual Property Rights. The United States will lose, and we will be presented with a series of unfortunate options: ignore the WTO, incur sanctions, or modify our law. All will be contentious and difficult."

Finally, I would like to point out that my friends on the other side of the isle are tireless in their pursuit of protecting property rights. I submit to you, Mr. Speaker, that intellectual property deserves every bit as much protection as tangible property. In Nashville, you can now get a bank loan using your songs as collateral.

In a heartbeat, without informed debate, Congress is taking away the property of songwriters and transferring it to restaurants without due process of law or just compensation The Fifth Amendment of the Constitution, as my colleagues well know, states that "no person shall be . . . deprived of life, liberty, or property, without due process of law."

I am unequivocally opposed to Title II of S. 505.

INTERNATIONAL ANTI-BRIBERY AND FAIR COMPETITION ACT OF 1998

SPEECH OF

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Ms. LOFGREN. Mr. Speaker, I am proud to cast my vote in favor of the conference report on the Securities Litigation Reform Act of 1998. This legislation is the culmination of a long, hard effort to enact reform of securities litigation.

When Congress passed the Private Securities Litigation Reform Act in 1995, we thought we had stopped the increasingly troubling practice of "strike suits." In these suits, a small group of attorneys took advantage of the legal system to coerce huge settlements out of growing high-tech companies, often with little or no evidence of wrong doing.

Unfortunately, loopholes in the new law were found. To avoid the new heightened pleading standards, cases were moved from Federal Courts into State courts. According to a recent study by Stanford Professors Joseph Grundfest and Michael Perino, 26% of securities litigation activity has shifted to state courts.

Because the threat of "strike suits" still exists, many executives in Silicon Valley are reluctant take full advantage of key provisions of the 1995 law. For example, the 1995 Act created a "safe harbor" provision to encourage companies to disclose valuable information about their prospects to investors. However, this provision is not being implemented because executives still are concerned about their exposure to strike suits in State courts. This hurts investors who lose access to valuable information, and it undermines the efficiency of securities markets.

It is time to close the loopholes. The Securities Litigation Uniform Standards Act of 1998 will finally slam the door on strike suits by establishing Federal court as the exclusive venue for securities class actions. This legislation targets abuses in our court system, but it also protects the rights of consumers who actually suffer from fraud.

I urge my colleagues to support this important bill.

PROGRESS FOR LATVIA

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. BEREUTER. Mr. Speaker, the editorial of the October 12, 1998, edition of *The Washington Post* very appropriately lauds the continued progress Latvia is making in perfecting its democratic form of government, especially as it relates to the complex and controversial subject of extending citizenship and civil rights to the very large proportion of non-citizens which reside in that country. Of the estimated 600,000 non-citizens in a population of 2.5 million, most of the non-citizens are Russian nationals who are part of or ancestors of the Russian populations encouraged to resettle in Latvia by the Soviets after their brutal subjugation of the Baltic states to implement the infamous Molotov-Ribbentrop Pact of 1939. Many of the Latvians including their president, Karlis Ulmanis, were forcibly removed to Siberia to fall unspeakable hardship and death.

Despite the understandable frustration and anger among Latvians of their loss of independence under the domination of the Soviet Union, the Latvian votes commendably rejected a referendum that would have derailed legislation to liberalize the requirements for obtaining citizenship for its non-citizen residents. In a country like Latvia, where ethnic Latvians now make up slightly less than half of the people living there, Latvian voters have sensibly recognized the reality of the changes it must make to maintain domestic tranquility and integrate its citizens into a unified force to build its future and reduce one crucial element of controversy with its neighbor, the Russian Federation.

Mr. Speaker, this Member encourages his colleagues to read the following editorial and to act to individually commend the Latvian government and voters for their good judgment, even in the face of the suffering and repeated provocations they have felt from the Soviet Union.

[From the Washington Post, Oct. 12, 1998]

LATVIA'S PROGRESS

One of the great dramas of this decade has been the struggle of three small Baltic countries to reestablish their national identities after a half-century of Soviet occupation. Estonia, Latvia and Lithuania are succeeding more quickly and with less fuss than anyone had reason to hope. Only on rare occasions of tension, such as when Russia suddenly began putting the squeeze on Latvia last spring, does one or another Baltic nation make a brief appearance in the news. A recent referendum held in Latvia typically went mostly unnoticed here.

The Soviet government shipped so many Latvians to Siberia and settled so many Russian-speakers in Latvia that when it regained independence in 1991 barely half its residents were ethnic Latvians. For any tiny nation trying to preserve a language and culture in the shadow of a large power, this would have posed a challenge; for a nation that felt it barely had escaped extermination, the challenge was particularly sharp. At the same time, many Latvians realized they could not hope to join modern Europe unless they welcomed and integrated all of their residents into their society. Many realized that a large pool of disaffected ethnic Russians would offer a perpetual pretext to make trouble for politicians in Moscow.

The Oct. 3 referendum concerned the rights of these 600,000 noncitizens (in a population of 2.5 million). In June, parliament approved a liberalizing law allowing any number to apply for citizenship instead of setting an annual quota. The law also qualified for citizenship children born since 1991 to noncitizens. Latvian nationalists opposed to the law, or resentful of Russian and Western pressure on the matter, gathered enough signatures for a referendum. But Latvians, by 55 percent to 43 percent, endorsed the changes.

Latvians still must demonstrate a sustained commitment to integration through language classes and other means. Russian speakers still must demonstrate their commitment to their new country. But the referendum result is an important symbol of Latvia's desire to join the West as a liberal democracy. Now Western institutions that strongly encouraged this result, and in particular the European Union, should respond by accelerating Latvia's inclusion in Europe.

THE ASSET-BUILDING FOR WORKING AMERICANS ACT

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. THOMPSON. Mr. Speaker, as you know, there are a variety of different manners through which eligibility for public assistance programs are limited according to income and resources. Unfortunately, these complex procedures often produce unwanted effects. I have particular concerns with the manner in which eligibility for public assistance programs is affected by savings accrued through the Earned Income Tax Credit (EITC). The legislation I will introduce today, the "Asset-Building for Working Americans Act," will seek to correct these problems. While the Asset-Building for Working Americans Act may undergo some changes before next year, I hope this original draft will stimulate a productive debate and suggestions for possible improvement before its reintroduction in the 106th Congress.

Existing income and resource limitations governing eligibility for Supplemental Security Income (SSI), Medicaid, and public housing disregard money saved from EITC payments for two months. At the end of these two months, working families must spend their EITC payment in order to prevent losing their eligibility for these programs. As a result, working families may miss the opportunity to build the savings needed to accrue enough assets to escape poverty permanently.

The Asset-Building for Working Americans Act corrects this unfortunate situation by adjusting the resource limitations for SSI, Medicaid, and public housing to disregard savings made through the EITC for 12 months—the same provision governing the eligibility for food stamps at the present time. The bill will also encourage states to define eligibility for Temporary Aid to Needy Families payments in the same manner.

Permitting families to save their EITC payments for up to a year and still remain eligible for these public assistance programs would allow low-income working families to live and raise their children in health and safety while saving money for long-term security. In effect, families could save two EITC payments rather than just one—up to $4,304 for a family of three. Once these two annual EITC payments make such a family ineligible for public assistance under the new resource limitations proposed in my bill, the family would have saved the money needed to take good steps towards building a better future, such as starting a small business; getting an education; or making a down payment towards a first home.

The Asset-Building for Working Americans Act does not encourage increased government handouts or dependence. It will instead encourage working Americans to save their EITC payments for the future by assuring them of access to the temporary assistance needed at the present. The Asset-Building for Working Americans Act is a good first step towards encouraging low-income families to look towards tomorrow today, and I encourage my colleagues on both sides of the aisle to work with me in support of it during the next Congress.

NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT OF 1998

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mr. DINGELL. Mr. Speaker, at some point, I hope that my Republican friends will explain to me their views on federalism. With this bill, the Majority is embracing the notion that the Federal Government possesses wisdom superior to the states on the subject of issuing motor vehicle titles.

The legislation stops short of a federal takeover of the state function of titling motor vehicles or creating a new Federal Department of Motor Vehicles. However, it tells every state in the country that it must comply with new federal regulations governing how states title motor vehicles. These new regulations will establish, and I quote, "uniform standards, procedures, and methods for the issuance and control of titles for motor vehicles and for information to be contained on such titles."

In Committee, Democratic Members raised a number of concerns about this legislation. Those problems still remain in the bill we have before us today.

First, this legislation gives no money to the states to perform inspections, if required, nor does it provide funds to carry out other new, federally imposed duties. I must admit I'm a bit perplexed. I thought my Republican colleagues had committed not to impose costly new burdens on state and local governments without compensating them for their expense.

Second, the bill could still preempt state laws that give the consumer greater protection. Although, under certain circumstances, the amendment before us lets the states set the percentage of value loss that will define what a salvage vehicle is, this bill could still preempt state laws that provide greater consumer protections in other areas of salvage vehicle title branding.

Third, the bill gives the Department of Transportation authority to issue regulations covering all aspects of vehicle titling by the states. That may be more than needed to accomplish the bill's stated purpose, which is to require title branding for salvage vehicles nationwide.

Mr. Speaker, for these reasons, the National Association of Attorneys General has opposed this legislation, as has a broad-based coalition of consumer groups. Among the consumer groups opposing the bill are: the Consumer Federation of America, Public Citizen, Consumers Union, and the U.S. Public Interest Research Group.

Clearly, there are legitimate theft prevention and consumer protection issues involved in the way the states title motor vehicles. I am not opposed to addressing these in a prudent and careful manner which respects the rights of the states.

I, therefore, suggest strongly that this bill simply needs more work and that it should not be enacted into law in its present form. This legislation seeks to address important public policy goals. However, we should be careful that our solution to these public policy concerns does not create new problems that we are not prepared to deal with.

ASSISTIVE TECHNOLOGY ACT OF 1998

SPEECH OF

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, October 9, 1998

Mrs. MINK of Hawaii. Mr. Speaker, I am pleased to rise in strong support of S. 2432, the Assistive Technology Act of 1998.

Assistive technologies have dramatically improved the quality of life for thousands of people in Hawaii and millions around the country. In addition to increasing the range of physical functions a person is capable of, assistive technologies provide psychological benefits increasing self esteem and empowering individuals with independence.

The Assistive Technology Act authorizes a range of programs designed to eliminate barriers preventing maximum utilization of Assistive Technologies. In addition to grants for public awareness, promotion, outreach and research, S. 2432, provides for programs that would encourage various segments of the community to become involved in assistive technology efforts.

I am particularly pleased that this bill contains specific provisions for outreach activities in rural and impoverished urban areas and for children and older individuals.

I am also delighted that S. 2432 authorizes alternative financing mechanisms including: loan guarantee or insurance programs, low-interest loan funds and interest buy-down programs; to help individuals with disabilities and their families to purchase assistive technology devices.

For many individuals with disabilities, assistive technologies means freedom and independence. What most of us take for granted.

I support the Assistive Technology Act of 1998 and urge its immediate passage.

RECOGNITION OF EMMA UDOVICH INDUCTED INTO THE TEXAS SENIORS HALL OF FAME

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. REYES. Mr. Speaker, I am pleased to recognize Emma Udovich, of El Paso, as a recent inductee of the Texas Seniors Hall of Fame. Emma was honored on September 22, 1998 at the opening ceremonies of the state games in Temple, Texas. At 74 she has won a roomful of medals for her athletic endeavors.

In 1986 Emma Udovich heard about the Senior Games over the radio in El Paso, she entered two cycling events and won two gold medals. Emma did not begin competing until she was in her sixties. In the next 13 years she found herself entering over 14 venues in the Senior Games as well as all 6 national Senior Games all over the Country.

Among her accomplishments Emma boasts the following titles: the first woman to be named El Paso Senior Games; Athlete of the Year (1994), Broke Senior national games; cycling record in mile race (1991), Lubbock Sports Classic; Outstanding Woman Athlete (1997), and Emma has won more than 200 gold medals among her 300 awards in senior games competition since 1986.

I am proud to recognize my fellow El Pasoan, Emma Udovich, for her remarkable accomplishments. Emma is a role model for all of us, at 61 she found her calling in athletic competition and pursued her dream. Today Emma has realized that dream through hard work, perseverance and the love of athletic competition. She is a beacon of hope for us all, and shows us that it is never too late to pursue your dreams.

HONORING ELEANOR GARLISI FOR HER YEARS OF SERVICE AS HEAD NURSE IN THE OFFICE OF ATTENDING PHYSICIAN, US CAPITOL

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. CLEMENT. Mr. Speaker, I rise today in honor of Eleanor Garlisi and her six years of service as the Head Nurse in the Office of Attending Physician of the US Capitol.

On November 3, Nurse Garlisi will retire from the Office of Attending Physician. I would like to take this opportunity to thank Nurse Garlisi for her years of service to this body and for making sure that all of my distinguished colleagues have had their shots.

During her tenture as Head Nurse, Eleanor has done everything from educating her patients on how to improve their health to providing emergency care for members, staff, and visitors to these hallowed halls.

I know that all of my colleagues who have had to visit the Office of Attending Physician will join me in thanking Nurse Garlisi for her care and compassion. I congratulate Nurse Garlisi on her years of service and wish her continued happiness and success in her future endeavors.

TRIBUTE TO SUE ELLIS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. BONIOR. Mr. Speaker, I would like to recognize today the accomplishments of my good friend, Sue Ellis. On September 30, Sue retired from her position as Director of Congressional Relations for Gallaudet University after nearly thirty years of service. During her years at Gallaudet, Sue has held many positions and her list of accomplishments is long.

Sue has been a wonderful asset to Gallaudet through her commitment to furthering the causes of the hearing-impaired community. Under Sue's watch, the University has flourished. Gallaudet has grown from a college to a university—an institution of higher learning led by a hearing-impaired president. Through much of her work with Congress, Sue has helped increase awareness of the importance of Gallaudet University to every community, not just the hearing-impaired.

Personally, Sue has been a very good friend to me and my staff and has encouraged my office to become more involved with the hearing-impaired community in my district. Sue has helped my office hire hearing-impaired interns and full-time staff and we appreciate her support and assistance to make this possible by helping to install the proper technology and arrange sign language classes for my staff and me.

I have also worked closely with Sue in her tireless efforts to organize the Congressional Basketball Game. This fundraising effort has grown from a small event into a tremendous success with national support and raises hundreds of thousands of dollars for the students at Gallaudet.

Through our many years of working closely with Sue, my office considers her a part of our family. I would like to personally thank her for her dedication to an important issue and her commitment to making our world a better place for all. We wish you all of the best in your retirement.

PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. NETHERCUTT. Mr. Speaker, on October 9, after 6:00 p.m. and on October 10, I was absent from the Chamber. I ask unanimous consent that the RECORD reflect that had I been here I would have voted "Aye" on rollcall votes 511–520.

CELEBRATING 9TO5'S TWENTY-FIVE YEARS

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. BARRETT of Wisconsin. Mr. Speaker, on Thursday, October 16, 1998, 9to5, the National Association of Working Women, will celebrate 25 years of advocating work place issues for women.

9to5 started in 1973 when a group of clerical workers in Boston decided that women workers deserved respect, higher pay, and better working conditions. Since then, as an increasing number of women continue to join the workforce, 9to5 has challenged employers and lawmakers to make the work place more responsive to women and families.

9to5 has worked tirelessly to win rights for women workers. They have worked to eliminate the practice of firing pregnant women, to establish leave time for women—and men—to care for a sick loved one, and to educate employers and employees about sexual harassment. Their efforts have translated into better work environments and higher morale for employees and higher production and lower turnover for employers.

In 1978, 9to5 members were instrumental in passing landmark legislation, the Pregnancy Discrimination Act, making it illegal for employers to discriminate against pregnant women. During the 1980's, 9to5 focused on passing a number of State laws on pay equity and family and medical leave. In 1987, in my home city of Milwaukee, Wisconsin, 9to5 piloted the "Job Retention Project" to help women make the transition from welfare to work. The successful project became the model for similar projects in Cleveland, Atlanta, and Los Angeles.

In 1993, 9to5 championed another legislative milestone, passage of the Federal Family and Medical Leave Act which allows workers to take leave to care for a family member without risk of losing their job. Also, in the 1990's, 9to5 has focused on sexual harassment in the work place by helping employers establish effective policies on sexual harassment.

As 9to5 celebrates the successes of the past 25 years, issues of fairness and equality continue to challenge women in the workforce. 9to5 will continue to fight the battle for women in the work place seeking higher and more equitable pay, more and better family-friendly policies, stronger employment programs and a reliable social safety net.

I congratulate 9to5 on its accomplishments and I encourage its members to continue their efforts to make the work place safer for women across the country.

RECOGNIZING THE ACCOMPLISHMENTS OF INSPECTORS GENERAL

SPEECH OF

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 10, 1998

Mr. LAZIO of New York. Mr. Speaker, I rise in support of the joint resolution, S.J. Res. 58, to recognize and praise the accomplishments of our Inspector Generals who strive every day to prevent and detect waste, fraud, abuse, and mismanagement, and to promote economy, efficiency, and effectiveness in the Federal Government.

I would specifically like to commend the accomplishments of the Office of the Inspector General of the Department of Housing and Urban Development (HUD). HUD Inspector General Susan Gaffney has worked with the Secretaries of HUD, the Congress, HUD managers and employees and the public to prevent and detect waste, fraud and abuse and bring about positive changes in the integrity, efficiency, and effectiveness of HUD operations.

For many years, HUD has been highly criticized for its poor performance and mismanagement. In September 1992, Congress mandated that the National Academy of Public Administration (NAPA) conduct a comprehensive review of HUD. The final July 1994 NAPA Report found that HUD's overload of some 240 programs was draining HUD's resources, muddling its priorities, fragmenting HUD's workforce, and confusing communities. NAPA concluded that if HUD did not clarify and consolidate it's legislative mandate in an effective, accountable manner in five years (by 1999), Congress and the Administration should consider dismantling the Department.

And there is more. In 1994, the GAO designated HUD a "high-risk agency" because of long-standing Department-wide mismanagement which have made HUD vulnerable to fraud, waste, and abuse. As a result, HUD has weak internal controls, poorly integrated information and financial systems, organizational problems and an insufficient mix of staff with proper skills.

HUD Inspector Susan Gaffney, appointed to office in August 1993, has spent the last five years getting things done at HUD.

Gaffney brings much experience and knowledge to the table. Susan Gaffney received a B.A. degree at Wilson College in 1965, earned an M.A. at Johns Hopkins School of Advanced International Studies, and studied in the Ph.D program in economics at Cornell University.

In 1970, Ms. Gaffney began her experience with housing issues as a staff analyst in the Department of Housing Preservation and Development with the City of New York. She departed, in 1979, as Deputy Commissioner of that Agency to accept a position as Director of Policy, Plans and Programs, Office of Inspector General, Agency for International Development.

She served in that capacity until 1982, when she was selected to serve as Assistant Inspector General with the General Services Administration (GSA). In 1987, Ms. Gaffney became Deputy Inspector General of GSA, where she assisted the Inspector General in directing all audit, investigatory and administrative functions. Appointed Acting Assistant Director of OMB's Financial Policy and Systems Branch, Management Integrity Branch, an the Cash and Credit Branch. She developed OMB's financial management strategy, and developed policy for implementation of the Chief Financial Offices Act. Her duties also included the formulation of revised policy and instructions for the Federal Managers' Financial Integrity Act, Federal credit programs, and cost principles governing Federal reimbursements.

Beginning in 1991, Ms. Gaffney served as Chief of the Management Integrity Branch at OMB; and developed government-wide policy relating to the Federal Managers' Financial Integrity Act, OMB's High Risk List, and the Inspector General Act. She also directed government-wide implementation of organizational, personnel, and reporting requirements of the Chief Financial Officers Act. Her experience in directing audit and investigatory functions has allowed her to bring a level of professionalism to the Office of the HUD IG that demands commendation.

Gaffney has spent the past five years at HUD supervising and coordinating audits and investigations of HUD's programs and operations. Furthermore, she recommends policies and coordinates activities geared to promoting economy, efficiency, and effectiveness in HUD programs.

Susan Gaffney has worked closely with former Secretary Henry Cisneros and Secretary Andrew Cuomo to help change HUD's high-risk status by monitoring management reform initiatives made by the Department. Ms Gaffney has also taken important strides to improve public housing with the Operation Safe Home program. The Operation Safe Home program is a collaboration by the Office of Inspector General (OIG) and Federal, State, and local law enforcement agencies to combat crime in public and assisted housing.

Despite the dedicated efforts on the part of HUD and the IG, the Department still must make more progress. The HUD IG's Semiannual report to Congress recognized improvements in some aspects of HUD's performance, but noted that, "progress is slow, and the Department's systemic weaknesses have not been directly addressed." In particular, Gaffney found that the HUD staff is incapable of managing the enormous number and wide-variety of programs run by the Department. In addition, the OIG found that various components of HUD are not equipped to provide reasonable stewardship over taxpayer funds expended for their programs.

The GAO also concluded that while HUD deserves credit for its progress in addressing management deficiencies, the department is far from fixed. The GAO states that HUD programs will remain high-risk until two actions are completed. First, HUD must complete more of its planned corrective actions, principally those related to internal controls and information systems. And, secondly, the Administration and Congress must agree on HUD's mission, structure, and approach to programs.

It is important to acknowledge that the work of the Inspector General is an on-going, vital process of maintaining smooth government operations and of preventing the waste and abuse that can occur in federal programs. The HUD IG must continue her work with the Department to improve all high-risk programs.

I encourage all Members of Congress to support this resolution. Lets praise and acknowledge the valiant efforts of all the Offices of Inspector Generals to facilitate our oversight duties and help us to improve the programs and operations of the Federal Government,

EXTENSION OF REMARKS ON THE MEDICARE MEDICAL NUTRITION THERAPY ACT

HON. JOHN E. ENSIGN

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. ENSIGN. Mr. Speaker, it is rare for any legislation in the House of Representatives to obtain the support of a majority of its members. In fact, fewer than one percent of all bills introduced in the 105th Congress have reached this status. I would like to announce with pride that a bill I sponsored, H.R. 1375, The Medical Nutrition Therapy Act, has achieved this remarkable level of support.

Over 220 of our colleagues support this measure because they recognize that the absence of coverage for nutrition therapy services is a glaring omission in current Medicare policy. Medical science makes clear that properly nourished patients are better able to resist disease and recover from illnesses than those who are malnourished. We also know that elderly Americans are at a higher risk of malnutrition than others in society due to the naturally occurring aging process.

Despite this knowledge, Medicare does not cover nutrition assessment and counseling services by registered dietitians—what is commonly know in the health care field as medical nutrition therapy (MNT). As a result, the elderly either pay for this service out of their own pockets, or go without. This is not a choice that those on fixed incomes should have to make. Medical nutrition therapy is medically necessary care and ought to be a covered benefit.

I am convinced that this bill is an important part of the solution to saving Medicare. It will help us cut costs without sacrificing the quality of patient care. Empirical evidence shows that MNT is effective for patients with diabetes, heart disease, cancer and other costly diseases that are prominent among the elderly. It lowers treatment costs by reducing and shortening the length of hospital stays, preventing health care complications and decreasing the need for medications. Yet still, we do not provide seniors coverage for this care.

It should be noted that support for medical nutrition therapy is not confined to Congress. Major patient advocacy groups including the American Cancer Society, the American Heart Association, the National Kidney Foundation, the American Diabetes Association and the National Osteoporosis Foundation also support coverage for MNT. These groups understand that appropriate nutrition therapy saves money and lives.

Any measure that achieves such an impressive level of political support is deserving of serious deliberation in this body. While I regret that this bill will not be taken up in the remaining days of this Congress, I urge the leadership of both parties to make this bill a top priority next year. While the Balanced Budget Act helped strengthen the Medicare program in the short term, additional reforms will be necessary to prepare the program for the coming retirement of the Baby Boom generation. Congress will be remiss if it overlooks medical nutrition therapy as part of those long-term reforms.

In closing, I want to thank the American Diatetic Association and the Nevada Diatetic Association for their fine work in helping me educate members of Congress about this important measure. The dedicated health and nutrition professionals represented by those groups can be proud of how far this bill had advanced in the 105th Congress and confident that we will ultimately succeed in these efforts.

STAND UP FOR STEEL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. COSTELLO. Mr. Speaker, I rise today to stand up for steel. Our steel industry is being decimated and the Republican leaders in Congress have once again resorted to partisan tactics that hurt American workers.

I am a cosponsor of H. Con. Res. 328. This resolution was cosponsored by 120 of my colleagues—both Democrat and Republican. This resolution calls on the Administration to take all necessary measures to respond to the surge of unfairly traded steel imports resulting from financial crises overseas. When one of my democratic colleagues attempted to bring the matter up for debate in this House last week, he was rebuked, essentially along party lines.

Instead, today the Republican leadership brings to the floor of this House a sham steel resolution. The Republican resolution makes substantial changes to water-down H. Con. Res. 328. This weakened resolution does not adequately address the seriousness and urgency of the steel crisis, nor the prospect of losing hundreds of thousands of American jobs.

The U.S. steel industry is suffering because the Russian and Asian financial crises have led those countries to illegally dump their steel on our market. Unfortunately, the trade laws that would protect American workers from unfair and illegal practices are being ignored. Foreign steel is pouring into our country where it is being sold below the cost of production. U.S. steel prices have fallen 20 percent in the last three months and will dive even further in the future if we do not act now. The U.S. steel industry has been forced to layoff workers and move to shorter work weeks. The industry has seen significant cuts in production and orders

have been lost. In my district, steel companies have been forced to send workers home and are operating on four-day weeks.

We can ill-afford to be the world's dumping ground for unfairly-traded steel. While I am saddened by the financial disasters in Asia, Russia, and elsewhere, these countries should not be allowed to export their problems here. We must find other means to help our trading partners deal with their economic challenges. Allowing unfairly-traded steel to flood our markets helps no one.

I am disappointed and ashamed that the Republican leadership in this body has turned the steel crisis into a partisan game. The resolution we consider today is a poor attempt to lull American workers into thinking that Republicans are concerned about their plight. We should reject this resolution. We must take a real stand for U.S. steel and U.S. steelworkers. This resolution does not fit the bill. Let's send it back and bring a strong resolution—like H. Con. Res. 328—to the floor of this House. I urge my colleagues to defeat this resolution.

TRIBUTE TO THE HUNTER COLLEGE CENTER ON AIDS, DRUGS AND COMMUNITY HEALTH

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Hunter College Center on AIDS, Drugs and Community Health, which will celebrate its tenth anniversary of promoting public health in New York City on Friday, October 16.

The Hunter College Center on AIDS, Drugs and Community Health was created in 1987 to respond to the growing public health crises that were devastating New York City's low-income communities. Its mission is to assist the people and organizations in poor neighborhoods to respond more effectively to the threats to public health caused by HIV/AIDS, substance abuse, tuberculosis, violence and related conditions.

Mr. Speaker, in the past ten years, the Center has provided direct services to more than 25,000 individuals, helped more than 75 community organizations create or strengthen health programs, trained more than 5,000 health and social service professionals, and provided internships, courses or research placements to more than 2,000 students from Hunter and elsewhere.

The Center has also received more than $17 million in grants and contracts from private foundations and public agencies and has in turn provided more than $500,000 directly to community organizations and neighborhood service providers to support their programs.

While it is important, and appropriate, to recognize the caregivers who provide these services, it is even more important that those individuals who have made special efforts to overcome their challenges also receive our attention and support.

As the Center enters its second decade, it has ambitious plans for the future. Beginning in 1998, with the support of the New York City Department of Health and in collaboration with the Hunter Center for Occupational and Environmental Health, the Center will provide training, assistance and evaluation support for a new citywide initiative against childhood asthma, which is a major problem in my congressional district.

Mr. Speaker, I hope my colleagues will join me in honoring the physicians, nurses, caseworkers, administrators, clerical workers, and all of the other caregivers and support staff of the Hunter College Center on AIDS, Drugs and Community Health for their outstanding efforts at this important milestone, and in wishing them continued success.

PRESCRIPTION DRUG INFLATION: WHY WE NEED TO PASS A MEDICARE PRESCRIPTION DRUG PROGRAM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. STARK. Mr. Speaker, last week, I introduced H.R. 4753, a bill to provide a Medicare prescription drug benefit.

Prescription drug expenses are projected to continue to inflate at a rate far above the general inflation in the economy and in medical care. More and more Americans and Medicare retirees will be facing financial hardship in paying for prescription drugs in the coming years. A national prescription drug insurance program, which would utilize the buying efficiencies of the Medicare program, is the best way to help meet this growing problem.

The September/October 1998 issue of Health Affairs contains a major article by HCFA actuaries and economists entitled, "The Next Ten Years of Health Spending: What Does the Future Hold?" Following are the paragraphs from the article describing anticipated prescription drug spending. Clearly, if these predictions are half correct, Congress should act to help.

Growth in prescription drug spending is expected to continue at a relatively rapid pace, supported by continued declines in our out-of-pocket payments for drugs associated with the shift of Medicare patients into managed care and an acceleration in new product introductions. Drug-price inflation began to rise in early 1998 and is expected to exceed its relatively slow pace of recent years through 2007.

Drugs. Recent rapid growth in drug costs over the past two years has often been cited as a contributing factor to health plans' escalating costs. Recent higher spending growth is almost entirely accounted for by rising utilization (number of prescriptions) and intensity (including changes in size and mix of prescriptions). Drug price inflation (as measured by the CPI for prescription drugs), which has historically been a major factor in rapid growth, has been relatively restrained since 1993. Excess inflation for prescription drugs averaged only 0.5 percent for 1993–1997, following a period (1982–1993) of 5.3 percent average growth.

Response by both consumers and health plans to slower growth in consumers' out-of-pocket payments for drugs has clearly played a role in the recent rise in utilization. In addition to slower drug price inflation, growth in out-of-pocket expenditures has been low since 1993, which reflects the shift to managed care, in which copayments for drugs tend to be much lower.

Growth in drug spending is expected to accelerate moderately through 1998 and to sustain fairly rapid rates of growth through 2007. Real per capita growth is expected to average just below 6 percent, about equal to the average during the 1980's. While drug prices are projected to accelerate from recent lows, average inflation rates are assumed to remain below the exceptionally rapid pace of the 1980's, with excess drug price inflation averaging 1.7 percent for 1998–2007. Rapid growth in use and intensity are expected to continue to account for most of the growth in spending.

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

SPEECH OF

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

Mr. CHAMBLISS. Mr. Speaker, "The House of Representatives shall have the sole power of impeachment." I take these words directly from Article I, Section 2 of the Constitution of the United States. Reading further, "The President shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors" (Article II, Section 4). It is this Constitution I swore an oath to uphold as Representative of the people of Georgia's 8th district, and it is the demands of this Constitution that I must interpret as I prepare to vote on this resolution to authorize a full inquiry to determine whether sufficient grounds exist to impeach President William J. Clinton.

Recently, the House of Representatives received the report of the Independent Counsel, Kenneth Starr, as his investigation relates to White House response to certain activities. While I condemn the President's decision to carry on a sexual relationship he has now come to admit, the substance of this relationship is irrelevant to the decision we face today.

The independent Counsel has reported 11 separate counts that may serve as the basis for the impeachment of the President. Among them, they include obstruction of justice, perjury, and witness tampering. Note that not one of the counts reported to the House addresses the right or wrong of the President's relationship with the former intern. The report contains allegations of activity that are inconsistent with the laws of this land, laws the President has sworn to uphold, laws the President and no man are above.

The decision we face today is as follows: Based on the report of the Independent Counsel, should the House of Representatives direct its committee on the Judiciary to make

such investigation as is necessary to determine whether the facts warrant the bringing of articles of impeachment to the full House. Having had the opportunity to review the report of the Independent Counsel, my answer must be 'yes.'

While I regret much of the detail associated with this inquiry, the responsibility for it may not be laid at the foot of the Congress or the Independent Counsel. I am confident that this House can and will pursue this inquiry with the import and dignity that will be demanded by the American people and the Constitution, itself. I do not take this action lightly, but if this Nation is to continue as the beacon of freedom, the seat of democracy, and if it is to continue to be in the words of Abraham Lincoln a "Government of the people, by the people, and for the people," we must not shy away from our responsibility. Over its history this great Nation has many times offered the ultimate sacrifice of its sons and daughters to protect our constitutional form of government. If for no other reason, it is for those fallen Americans that we must enforce the rule of law today.

Mr. Speaker, it is with a sad, yet resolved, heart that I support the resolution before us today to authorize the inquiry into whether sufficient grounds exist to impeach President William J. Clinton.

IN PRAISE OF CHARLOTTE, NORTH CAROLINA'S "UNITY AGAINST HUNGER AND POVERTY"

HON. SUE MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mrs. MYRICK. Mr. Speaker, I rise today in support of Charlotte, North Carolina's "Unity Against Hunger and Poverty." For years, this coalition of Charlotte area anti-hunger and homelessness programs has worked hard to care for the needy of Charlotte-Mecklenburg. Recently, the members of "Unity Against Hunger and Poverty" sent a letter to my colleague, Representative TONY HALL of Ohio, praising Mr. HALL for his tireless efforts to secure full federal funding for The Emergency Food Assistance Program (TEFAP). I am submitting the text of the group's letter for the CONGRESSIONAL RECORD because it serves as a suitable tribute to both the work of my friend, Mr. HALL, as well as to the dedication and efforts of "Unity Against Hunger and Poverty."

I will always support full funding for the TEFAP program. TEFAP provides vital assistance to our nation's local anti-hunger programs, providing food banks with 20% of the food they need every year. At the same time, TEFAP is a model of government efficiency. While the food stamp program returns only four cents of every dollar to agricultural producers, the TEFAP program returns eighty-five cents of every dollar back to America's farmers. It simply makes sense for the government to purchase excess agricultural commodities to distribute to food banks. By doing so, we can help families get through hard times and can help farmers deal with low commodity prices.

AUGUST 13, 1998.

Hon. TONY P. HALL,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE HALL: For over twenty years, you have led the fight against domestic and international hunger in the halls of Congress. So often you must have felt alone and discouraged, but still you persevered. People you will never know have benefited from your work and the battles you have fought.

Today we, the members of Unity Against Hunger and Poverty in Charlotte, send this letter to express our heartfelt gratitude. Your beacon has led us, pointing the way as we battled the darkness of hunger and poverty in our daily work.

Your leadership transcends Ohio's Third Congressional District. Indeed, your spirit has touched us here in North Carolina. We are better as professionals and as human beings because you inspired us with your example of hope laced with action.

Thank you for bearing the standard when so many others have fallen aside. We pray that you will be given the strength to continue.

Sincerely, the undersigned members, Unity Against Hunger and Poverty:

LYN MORTON,
Loaves & Fishes.

KEN M. MONTAPUT,
Charlotte Emergency Housing.

BETSY VAN WIER,
Second Harvest Food Bank of Metrolina.

FRANCES DANIEL,
Church World Service/CROP.

MARY ANN PILCE,
Urban Ministry Soup Kitchen.

BONNIE WHIT,
Community Food Rescue.

MARILYN MAAS,
Society of St. Andrew/Gleaning Network.

E.J. UNDERWOOD,
Charlotte Rescue Mission.

FRANK MANFIELD,
Uptown Shelter for Homeless Men.

LUCY BUSH,
Friendship Trays.

MARCIA MORTON,
Presbytery of Charlotte.

BEF HOWARD,
Loaves & Fishes.

MAKAH WHALING EFFORT

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 12, 1998

Mr. METCALF. Mr. Speaker, I rise today to briefly discuss the ongoing Makah whaling effort. As you may know, the Makah tribe have begun their efforts to hunt gray whales inside the Marine Sanctuary off the coast of Washington State. I continue to stand opposed to the slaughter of these whales, and have grave concerns about the effects that this hunt will have on the whale watching industry in my region and the precedent it sets world wide.

I ask unanimous consent to include this letter in the section for Extension of Remarks, written to NOAA by Mr. Will Anderson of the Progressive Animal Welfare Society (PAWS), an organization in Washington State. The letter brings forward some very interesting and provocative points against the whale hunt, and I would like to submit the text for consideration by the Members of the House and the public.

PAWS,
Lynnwood, WA, September 29, 1998.

D. JAMES BAKER,
Under Secretary for Oceans and Atmosphere, Washington, DC.

DEAR DR. BAKER: As you know, the Makah have declared in the media that they will hunt gray whales anytime after October 1, 1998. This letter is a petition and notification on behalf of the members and supporters of the Progressive Animal Welfare Society (PAWS), a nonprofit organization based in Lynnwood, Washington. The subject of this letter concerns three documents created by agencies within the Department of Commerce.

However, before I describe our concerns regarding those documents, I need to first bring up the question of the Makah whaling season and their agreement, in the Makah Management Plan, to not kill resident whales.

I have read your letter to Mr. Ben Johnson, Chairman of the Makah Tribal Council, dated March 6, 1998. In that letter, with one reservation, you approved the Management Plan For Makah Treaty Gray Whale Hunting For The Years 1998–2002 (the Plan) and indicated that the Plan was understood by your agency to mean that only migrating gray whales would be targeted by Makah hunters. PAWS concurs with your finding that migrating gray whales are unlikely (we believe there is zero chance) to be in the area of Neah Bay until November. However, we are also aware of ample research data from both the United States and Canada that states the southward migration of gray whales will not arrive in Washington waters until December. Until that time, resident whales predominate. I recently confirmed this with Dr. Jim Darling, whose data the U.S. attorneys used in Metcalf versus Daley recently.

Unfortunately, the Makah seem intent on breaking the Agreement Between NOAA and the Makah Tribal Council (the Agreement). They have given clear signals to the media that they intend to kill whales on October 1, or shortly thereafter. Only "resident" whales will be there at that time.

So, we have two immediate problems: The first is that the Makah appear prepared to break the Agreement, perhaps within 48 hours, with Commerce's pre-knowledge. The second is the March 16 letter that asserts that the migration will be passing through Washington in November. Additionally, to my knowledge, as of today, the Makah have neither consulted with Commerce/NMFS that they believe a migration is under way, as is provided by the Whaling Plan and your March 16 letter, nor does NMFS have any idea of what that consultation would consist of or who would make that decision (personal communication with NMFS Seattle, this date).

Dr. Baker, I respectfully request that you immediately inform the Makah Whaling Commission and the Makah Tribal Council that it is a violation of the Agreement to kill the resident gray whales who transit between SE Washington harbors, to Neah Bay waters and Vancouver Island, Canada. More appropriately, the Makah hunt should not be done in the fall, even December, since the first of the migrating southbound whales are characteristically pregnant females.

Because the Makah are going back on their stated intent to only kill migratory gray whales and they appear to be violating the understanding as expressed in your March 6 letter, resident whales will be killed. (It should be noted that it will be impossible to tell the difference between migrants and residents during the migration because the two categories intermingle at those times. Only the odds of killing a resident change.)

PAWS urges you to rectify these matters by stating that, at the least, whaling will not be allowed to commence until December and that no whaling permits should be issued until that time. Furthermore, PAWS requests that you notify NMFS Seattle and instruct them to not declare a migration is in progress. It is scientifically untenable to do so.

The second overriding problem is that it appears Commerce has approved a Plan and entered into an Agreement which are both materially insufficient, at the least. There is a direct linkage beginning with 50CFR, Part 230 that describes what each document is to accomplish and what it is to contain. What follows is a review of three key documents that are the foundation of the Commerce Department's pro-Makah whaling program. The documents are. Federal Register/Vol. 61, No. 113/Tuesday, June 11, 1998/Rules and Regulations which is the publication of 50 CFR, Part 230, the revised domestic whaling regulations enabling the Inuit and Makah to hunt; the Agreement Between The National Oceanic And Atmospheric Administration And The Makah Tribal Council (the "Agreement"); and the Management Plan For Mikah Treaty Gray Whale Hunting For The Years 1998–2002 (the Plan).

FEDERAL REGISTER ("FR"), 6/11/98: 50 CFR, PART 230

There are a number of "promises" made by the Department of Commerce/NMFS in both the preamble discussion and the final Rule. Both Toni Frohoff, representing the Humane Society of the United States (HSUS) and I, representing the Progressive Animal Welfare Society (PAWS) submitted comments on the revised regulations. Quotes from the Federal Register are in quotation marks and italicized.

(A) FR, page 29630, bottom half of second column, *"Nevertheless, NMFS will initiate research this summer on gray whales in the Makah area and in Puget Sound. This research is intended to help differentiate resident whales which may swim near Seattle and other local whale watching areas, from whales that are migrating past Neah Bay."* Comment: Aside from the known fact that any whales killed in October will not be migrants, and the fact that we know John Calamokidis has an ongoing research program of Washington's gray whales funded by NMFS, has the research been completed? Does this research cited in Commerce's response really give us the ability to differentiate between residents and migrants?

(B) FR, page 29630, bottom of second column to top of third column, *"If the IWC authorizes whaling by the Makah Tribe, NMFS will re-assess its obligations under the National Environmental Policy Act."* Comment: Was there a formal re-assessment for this action?

(C) It should be noted that historically, IWC requirements for aboriginal whaling were stated in terms of cultural *and* subsistence need. Previous to the revision, that is how US regulations stated the requirements. In this 50 CFR, Part 230 revision, Commerce began stating that it was *cultural and/or subsistence need. My comment in the FR, page 29629, third column, half-way down the definition of whaling village should be changed to read 'any U.S. village having a cultural and subsistence need for whaling' instead of having a cultural and/or subsistence need for whaling:* Their *"Response: NMFS believes that the current language more accurately reflects the interpretation of the IWC of the requirements for aboriginal whaling."* Comment: This is an arbitrary decision that has had an important effect on US conservation strategy and actions, domestically and internationally. The Commerce change of the word "and" to "and/or" was essential to the overall strategy to get the Makah approved as cultural whalers. The and/or decree appears to be a major administrative rule change that has the effect of law, yet there appears to be no formal administrative procedure(s) nor NEPA process.

(D) FR, page 29629, bottom of third column top of next page, 29630. Here is a discussion of Penalties. A commenter stated that penalties should be in CFR 50, Part 230. The Commerce response was that the *"Cooperative Agreement may delegate some enforcement functions to the Native American whaling organizations."* They also state that, ultimately, the whalers are subject to the Whaling Convention Act (WCA) and the MMPA, and that Commerce has specific responsibilities under the law that would be enforced after failure of tribal efforts and consultation with tribes. However, in the Agreement and Plan, all penalties are tribal and no mention is made of any other provision. The Makah, operating under a treaty right, are exempt from the MMPA—or so it appears. The WCA may be the only enforcement mechanism, but this and its provisions are not discussed in the FR posting. We question the sufficiency of this arrangement and the change from delegating "some" to delegating totally.

(E) FR, page 29631, top of first column, is the state, *"This final Rule does not change the regulations that allow whaling only for subsistence and cultural use."* Commerce uses "and" here. Do I not understand that "and" means both criteria apply as was the original practice? Or is this just a FR slip of the tongue? Please comment.

(F) FR, page 29631, "If the IWC authorizes whaling by the Makah Tribe, NMFS will reassess its obligations under the National Environmental Policy Act." This is the second time this was "promised." See item "B" above. Was it ever acted upon? If not, we request NMFS do so before the hunt.

(G) FR, page 29631, two-thirds down the first column, *". . . whaling activities conducted under this rule will have no adverse effects on marine mammals beyond what is authorized by the IWC,"* This increases our concerns about the current stuck and lost criteria (see FR page 29628). Commerce states that a harpoon that falls out of a whale (see later discussion) does not count as a strike. This can does affect several whales beyond the 13 who are already above the quota of 20 which is "what is authorized by the IWC."

(H) FR, page 29631, bottom of third column, whaling village is defined as having a cultural and/or subsistence need for whaling. See items "C" and "E" above. Also take note of the definition assigned to "strike" as I will refer to it when discussing the Plan.

(I) FR, page 29631, Definitions. *"Aboriginal subsistence whaling means whaling authorized by paragraph 13 of the Schedule annexed to and constituting part of the Convention."*. Does this paragraph 13 include the enabling language the US Government is claiming as the quota given at Monaco, 1997? If so, it includes the phrase, ". . . whose subsistence and cultural needs have been recognized." It has historically been the IWC that does the "recognizing."

(J) FR, page 29632, part 230.4, two-thirds down the first colum. Item *"(e) No person may receive money for participation in aboriginal subsistence whaling."* I was told by one Makah person that Makah Whaling Commission Members were paid for each meeting and for each canoe/whaling practice. Is this true?

THE AGREEMENT BETWEEN NOAA AND THE MAKAH TRIBAL COUNCIL (THE "AGREEMENT")

(A) First page, Introduction. In this first paragraph there are references to the Treaty, the Whaling Convention Act (WCA) and "other Federal law." I find it hard to believe that this agreement makes no mention of 50 CFR, Part 230 as well as the ESA and MMPA which are in the Federal Register notice describing the requirement for the Agreement (FR, page 29629). This needs to be added to the Agreement.

(B) First page, Introduction, second paragraph, item (a) note that this stated the old language "for subsistence and ceremonial purposes." I believe in its first appearance, this Agreement preceded the revised 50 CFR, Part 230 as published in the Federal Register (FR) which suddenly stated the and/or definition. Examples abound. Also note in item (b) the reference "under a quota approved by the IWC." It brings up (as repetition) the amendment which read in part, "whose subsistence and cultural need is recognized" but this 1997 JWC language in not included in the Agreement which should be updated.

(C) Page 2, Request For Quota, 1.1(a) Again in pre-revised 50 CFR, Part 230, Commerce calls the Makah request subsistence. The referred-to statement was highly criticized. In part (b) of this section, the supplemental statement of need essentially said whale meat would replace junk food and become a meaningful part of their diet that would in turn improve their health. In part (c) I am unaware that NOAA/NMFS used any specific criteria for determining the adequacy of a needs statement. What are the criteria for objectively determining whether a needs statement meets a non-arbitrary threshold.

(D) Page 4, Item 2(d). "An explanation of the circumstances associated with the striking of any whale not landed, and an estimate of whether the animal suffered a wound that might be fatal to the animal." This is an important and arguable aspect that consists of two parts. The first, as I will describe when evaluating the Makah Whaling Plan, is that the definition of strike in the Plan does not appear to agree with the definition in the Federal Register, revised 50 CFR, Part 230. The second has to do with defining and estimating what might be fatal. Though not directed primarily at whaling activities, NOAA Technical Memorandum NMFS–OPR–13, Differentiating Serious and Non-Serious Injury of Marine Mammals Taken Incidental to Commercial Fishing Operations: Report of the Serious Injury Workshop 1–2 April 1997, Silver Spring, Maryland, January, 1998 by Robyn P. Angliss and Douglas P. DeMaster sheds some important light as it does discuss whales injured by fisheries activities. Physiological responses appear to vary but can lead to death due to prolonged stress. There are several lengthy quotes that include physical injury to whales that did not appear to heal and afterward said whales were found dead on a beach. In short, NOAA/NMFS cannot tell with any accuracy (much less a Makah whaler), what constitutes a serious injury, especially with a .50 caliber projectile traveling into the water column some distance, out of human sight.

(E) Page 4, Management, item 3(b). The Makah Whaling Plan fails to declare an opening a closing date. Refer to this item when I bring it up in the Makah Whaling Plan.

(F) Page 5, item 3(e). Here it is stated that the hunting activities will take place outside of the Tatoosh-Bonilla Line. I have contacted a resource who is a cartographer who in turn called the Coast Guard. The Tatoosh-Bonilla line runs from Tatoosh Island near Neah Bay to Bonilla Point which is on Vancouver Island. Bonilla Point Latitude is 48 degrees, 35.7 minutes; Longitude is 124 degrees, 43 minutes. The Coast Guard's proposed regulatory zone extends eastward from this line where whaling is not supposed to take place. So whaling is not supposed to take place anywhere near Neah Bay, nor in most of the Strait of Juan de Fuca. Furthermore, "whaling" is defined in the Makah Whaling Management Plan as "the scouting for, hunting, striking, killing or landing of a whale." Please note: we do not have, at this date, a copy of the Final Rule issued by the Coast Guard, so we can only assume what is known. I requested twice this morning a copy of the Final Rule and was told it would be published October 1, perhaps less than twenty-fours hours before the Makah hunt. If this is the case, it is intolerable to PAWS that the scheduling of the administrative Rule is set so close to a hunt. It deprives us of the information we and our representatives need to understand the Rule.

(G) Page 5, item 4(a) Enforcement. There is no mention regarding waste. In the Federal Register, in response to my comment on the revision of 50 CFR, Part 230, *"The term 'wasteful manner' should include the use and waste of whale products after landing."* Keep in mind that landing means bringing any whale products on shore. NOAA/NMFS stated, *"NMFS agrees. The term has the same meaning as §216.3: "Wasteful manner means any taking or method of taking which is likely to result in the killing of marine mammals beyond those needed for subsistence or the making of authentic native articles of handicrafts and clothing or which results in the waste of a substantial portion of the marine mammal . . ."* Yet, the Agreement makes no mention of waste whatsoever. Please add a discussion and prohibition of waste to the Agreement.

THE MAKAH MANAGEMENT PLAN (THE "PLAN")

I believe the Makah Management Plan, already approved by D. James Baker (letter, March 16, 1998) with one exception (hunt in November, not October) is materially insufficient in not meeting the Federal Register published 50 CFR, Part 230 criteria and the Agreement.

(A) Page one, third paragraph. Note Commerce is now using "ceremonial and subsistence" language though the Department never proved a subsistence/nutritional need at the IWC, and arguably, nor in their needs statement domestically. What are the NOAA/NMFS criteria for approving/not approving cultural and subsistence needs? I have not seen any Rule or other promulgation to that effect.

(B) Page Two, Definitions, item "G." Strike is defined in the Plan far differently than is defined in 50 CFR, Part 230. The language in the Plan requires the strike to "result or is likely to result in death" in order to be counted as a strike. The Plan additionally requires the harpoon to remain embedded in the whale to count as a strike! Five harpoons could conceivably fall out of a single whale and not be counted as a strike. Commerce appears to have no basis for making this determination. The 50 CFR, Part 230 reads, *"Strike means hitting a whale with a harpoon, lance or explosive device."* That's it. See my citation on wounded whales incidental to fishing operations for a wealth of quotes that indicate the Plan's definition is simply insupportable. It does not follow the precautionary principal. Please make the Plan consistent with 50 CFR, Part 230. Every weapon striking the skin, perhaps breaking the skin, of a whale should count as a strike.

(C) Page 2, Definitions, item "A." Calf. I'm going back to this because I've always been bothered with the response of NOAA to our comments regarding the definition of calf. Commerce took the position of determining whether or not a whale was a calf by seeing if there was milk in his stomach after—the infraction when the whale calf is dead. It is interesting that in the old CFR regulations, a Bowhead whale was called a calf if she was under 25 feet in length. We protest the new definition in that it weakens and fails efforts to protect calves.

(D) Page four, item "D." The Council shall provide at least 24 hours advance notice to the NMFS prior to approving a whaling permit. That advance notice is not required if an NMFS agent is on the Makah Reservation. The time frame does not allow enough administrative oversight (one field biologist given information and sole authority) and ensures the public will be excluded from notice.

(E) Page 4, item "F." "The Commission (here referring to the Makah Whaling Commissions, in other documents The International Whaling Commission) may issue a whaling permit only after determining there is an unmet subsistence *or* cultural need for whale products in the tribal community." Here is the same pattern, mixing "and" with "and/or" and now "or." Which is it?

(F) Page 5, item "V." Training/Qualifications. This paragraph says that Makah whaling team members will be trained and certified for their roles under certification guidelines established by the Commission. I'd like to see those guidelines. We should be able to because this certification is required by 50 CFR (Part 230.4(d)) *"No whaling captain shall engage in whaling without an adequate crew or without adequate supplies and equipment."* There is a clear link between the CFR and this Plan. Page 3, top, of the Agreement requires the Plan. The Agreement is required by 50 CFR in Part 230.2 Definitions, Cooperative Agreement. Are we not allowed access to them, as they are required by CFR?

(G) Item VII, Area Restrictions, "A." Whaling is only permitted westward on the open ocean outside the Tatoosh-Bonilla Line. As described in my item "F" under the critique of the Agreement, this line is far different from the Coast Guard's regulatory/exclusion zone (note, since the Final Rule is not out at this date, I and the public are clueless as to the content and application of the Rule).

(H) Enforcements and Penalties Sections on pages 8 and 9. As discussed earlier, in the 50 CFR negotiations, it was published in the FR that some enforcement/penalties responsibilities may be transferred to tribal authorities. See my comments under the 50 CFR critique, my item (D).

(I) There are no opening and closing dates for each year's hunts in the whaling in the Plan. This is succinctly required in the Agreement on page 4, item 3(b). They would have to do this for the Spring hunt as well.

Secretary Baker, since this matter is of urgent importance, we respectfully request a timely response to our concerns, before the Makah are allowed to conduct their hunt.

Sincerely,

WILL ANDERSON,
Wildlife Advocate.