HOUSE OF REPRESENTATIVES,
Washington, DC, June 15, 1998.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on June 15, 1998 at 4:01 p.m. and said to contain a message from the President whereby he transmits to the Congress a report required by Condition (4)(A) of the resolution of advice and consent to ratification of the Chemical Weapons Convention.

With warm regards,

ROBIN H. CARLE,
Clerk.

¶58.11 CHEMICAL WEAPONS CONVENTION COST-SHARING

The Clerk then read the message from the President, as follows:

To the Congress of The United States:

Attached is a report to the Congress on cost-sharing arrangements, as required by Condition (4)(A) of the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 15, 1998.*

By unanimous consent, the message, together with the accompanying papers, was referred to the Committee on International Relations.

¶58.12 CONGRESSIONAL MEDAL TO NELSON R. MANDELA

Mr. CASTLE moved to suspend the rules and pass the bill (H.R. 3156) to present a congressional gold medal to Nelson Rolihlala Mandela.

The SPEAKER pro tempore, Mr. EWING, recognized Mr. CASTLE and Ms. WATERS, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and pass said bill?

The SPEAKER pro tempore, Mr. EWING, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill was passed.

A motion to reconsider the vote whereby the rules were suspended and said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶58.13 FASTENER QUALITY IN AIRCRAFT

Mr. SENSENBRENNER moved to suspend the rules and pass the bill (H.R. 3824) amending the Fastener Quality Act to exempt from its coverage certain fasteners approved by the Federal Aviation Administration for use in aircraft; as amended.

The SPEAKER pro tempore, Mr. EWING, recognized Mr. SENSENBRENNER and Mr. BARCIA, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and pass said bill, as amended?

The SPEAKER pro tempore, Mr. EWING, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill, as amended, was passed.

A motion to reconsider the vote whereby the rules were suspended and said bill, as amended, was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶58.14 TELEMARKETING FRAUD PREVENTION

Mr. GOODLATTE moved to suspend the rules and agree to the following amendment of the Senate to the bill (H.R. 1847) to improve the criminal law relating to fraud against consumers:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Telemarketing Fraud Prevention Act of 1997''.

SEC. 2. CRIMINAL FORFEITURE OF FRAUD PROCEEDS.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating the second paragraph designated as paragraph (6) as paragraph (7); and

(B) by adding at the end the following:

''(8) The Court, in sentencing a defendant convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or of a conspiracy to commit such an offense, if the offense involves telemarketing (as that term is defined in section 2325), shall order that the defendant forfeit to the United States any real or personal property—

''(A) used or intended to be used to commit, to facilitate, or to promote the commission of such offense; and

''(B) constituting, derived from, or traceable to the gross proceeds that the defendant obtained directly or indirectly as a result of the offense.''; and

(2) in subsection (b)(1)(A), by striking ''(a)(1) or (a)(6)'' and inserting ''(a)(1), (a)(6), or (a)(8)''.

SEC. 3. PENALTY FOR TELEMARKETING FRAUD.

Section 2326 of title 18, United States Code, is amended by striking ''may'' each place it appears and inserting ''shall''.

SEC. 4. ADDITION OF CONSPIRACY OFFENSES TO SECTION 2326 ENHANCEMENT.

Section 2326 of title 18, United States Code, is amended by inserting '', or a conspiracy to commit such an offense,'' after ''or 1344''.

SEC. 5. CLARIFICATION OF MANDATORY RESTITUTION.

Section 2327 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''for any offense under this chapter'' and inserting ''to all victims of any offense for which an enhanced penalty is provided under section 2326''; and

(2) by striking subsection (c) and inserting the following:

''(c) VICTIM DEFINED.—In this section, the term 'victim' has the meaning given that term in section 3663A(a)(2).''.

SEC. 6. AMENDMENT OF FEDERAL SENTENCING GUIDELINES.

(a) DEFINITION OF TELEMARKETING.—In this section, the term ''telemarketing'' has the meaning given that term in section 2326 of title 18, United States Code.

(b) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall—

(1) promulgate Federal sentencing guidelines or amend existing sentencing guidelines (and policy statements, if appropriate) to provide for substantially increased penalties for persons convicted of offenses described in section 2326 of title 18, United States Code, as amended by this Act, in connection with the conduct of telemarketing;

(2) submit to Congress an explanation of each action taken under paragraph (1) and any additional policy recommendations for combating the offenses described in that paragraph.

(c) REQUIREMENTS.—In carrying out this section, the Commission shall—

(1) ensure that the guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) and any recommendations submitted thereunder reflect the serious nature of the offenses;

(2) provide an additional appropriate sentencing enhancement if offense involved sophisticated means, including but not limited to sophisticated concealment efforts, such as perpetrating the offense from outside the United States;

(3) provide an additional appropriate sentencing enhancement for cases in which a large number of vulnerable victims, including but not limited to victims described in section 2326(2) of title 18, United States Code, are affected by a fraudulent scheme or schemes;

(4) ensure that guidelines and policy statements promulgated or amended pursuant to subsection (b)(1) are reasonably consistent with other relevant statutory directives to the Commission and with other guidelines;

(5) account for any aggravating or mitigating circumstances that might justify upward or downward departures;

(6) ensure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code; and

(7) take any other action the Commission considers necessary to carry out this section.

(d) EMERGENCY AUTHORITY.—The Commission shall promulgate the guidelines or amendments provided for under this subsection as soon as practicable, and in any event not later than 120 days after the date of enactment of the Telemarketing Fraud Prevention Act of 1997, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that authority had not expired, except that the Commission shall submit to Congress the emergency guidelines or amendments promulgated under this section, and shall set an effective date for those guidelines or amendments not earlier than 30 days after their submission to Congress.

SEC. 7. FALSE ADVERTISING OR MISUSE OF NAME TO INDICATE UNITED STATES MARSHALS SERVICE.

Section 709 of title 18, United States Code, is amended by inserting after the thirteenth undesignated paragraph the following:

''Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words 'United States Marshals Service', 'U.S. Marshals Service', 'United States Marshal', 'U.S. Marshal', 'U.S.M.S.', or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner

that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;''.

SEC. 8. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out ''or'' at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following:

''(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).''.

The SPEAKER pro tempore, Mr. EWING, recognized Mr. GOODLATTE and Mr. DELAHUNT, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and agree to said amendment?

The SPEAKER pro tempore, Mr. EWING, announced that two-thirds of the Members present had voted in the affirmative.

Mr. GOODLATTE demanded that the vote be taken by the yeas and nays, which demand was supported by one-fifth of the Members present, so the yeas and nays were ordered.

The SPEAKER pro tempore, Mr. EWING, pursuant to clause 5, rule I, announced that further proceedings on the motion were postponed.

¶58.15 ADVISORY COUNCIL ON CALIFORNIA INDIAN POLICY EXTENSION

Mr. YOUNG of Alaska, moved to suspend the rules and pass the bill (H.R. 3069) to extend the Advisory Council on California Indian Policy to allow the Advisory Council to advise Congress on the implementaiton of the proposals and recommendations of the Advisory Council.

The SPEAKER pro tempore, Mr. EWING, recognized Mr. YOUNG of Alaska and Mr. FALEOMAVAEGA, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and pass said bill?

The SPEAKER pro tempore, Mr. EWING, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill was passed.

A motion to reconsider the vote whereby the rules were suspended and said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶58.16 ROGUE RIVER NATIONAL FOREST

Mr. SMITH of Oregon, moved to suspend the rules and pass 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 SPEAKER pro tempore, Mr. EWING, recognized Mr. SMITH of Oregon and Mr. FALEOMAVAEGA, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and pass said bill?

The SPEAKER pro tempore, Mr. EWING, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill was passed.

A motion to reconsider the vote whereby the rules were suspended and said bill was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶58.17 NATIONAL DROUGHT POLICY

Mr. BOEHLERT moved to suspend the rules and pass the bill (H.R. 3035) to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; as amended.

The SPEAKER pro tempore, Mr. EWING, recognized Mr. BOEHLERT and Mr. BORSKI, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and pass said bill, as amended?

The SPEAKER pro tempore, Mr. SHIMKUS, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said bill, as amended, was passed.

A motion to reconsider the vote whereby the rules were suspended and said bill, as amended, was passed was, by unanimous consent, laid on the table.

Ordered, That the Clerk request the concurrence of the Senate in said bill.

¶58.18 INDIVIDUALS WITH DISABILITIES EDUCATION

Mr. GOODLING moved to suspend the rules and agree to the following resolution (H. Res. 399); as amended:

Whereas Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1247 (E. Dist. Pa. 1971), and Mills v. Board of Education of the District of Columbia, 348 F. Supp. 866 (Dist. D. C. 1972), found that children with disabilities are guaranteed an equal opportunity to an education under the 14th amendment to the Constitution;

Whereas the Congress responded to these court decisions by passing the Education for All Handicapped Children Act of 1975 (enacted as Public Law 94–142), now known as the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), to ensure a free, appropriate public education for children with disabilities;

Whereas the Individuals with Disabilities Education Act provides that the Federal, State, and local governments are to share in the expense of educating children with disabilities and authorizes the Federal Government to pay up to 40 percent of the national average per pupil expenditure for children with disabilities;

Whereas the Federal Government has provided only 7, 9, and 11 percent of the maximum State grant allocation for educating children with disabilities under the Individuals with Disabilities Education Act in the last 3 years, respectively;

Whereas the national average cost of educating a special education student ($12,002) is more than twice the national average per pupil cost ($5,955);

Whereas research indicates that children who are effectively taught, including effective instruction aimed at acquiring literacy skills, and who receive positive early interventions demonstrate academic progress, and are significantly less likely to be referred to special education;

Whereas, if the appropriation for part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) exceeds $4,100,000,000 for a fiscal year, a local educational agency may reduce its local spending on special education for such fiscal year by an amount equal to 20 percent of the amount that exceeds the prior year's appropriation so long as the local educational agency is not failing to comply with the requirements of part B of such Act, as determined by the State educational agency;

Whereas the Individuals with Disabilities Education Act has been successful in achieving significant increases in the number of children with disabilities who receive a free, appropriate public education; and

Whereas the current level of Federal funding to States and localities under the Individuals with Disabilities Education Act is contrary to the goal of ensuring that children with disabilities receive a quality education: Now, therefore, be it

Resolved, That the House of Representatives urges the Congress and the President, working within the constraints of the balanced budget agreement, to give programs under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) higher priority among Federal education programs by working to fund the maximum State grant allocation for educating children with disabilities under such Act.

The SPEAKER pro tempore, Mr. SHIMKUS, recognized Mr. GOODLING and Mr. MARTINEZ, each for 20 minutes.

After debate,

The question being put, viva voce,

Will the House suspend the rules and agree to said resolution, as amended?

The SPEAKER pro tempore, Mr. SHIMKUS, announced that two-thirds of the Members present had voted in the affirmative.

So, two-thirds of the Members present having voted in favor thereof, the rules were suspended and said resolution, as amended, was agreed to.