SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN:

S. Res. 192. A resolution expressing the sense of the Senate that institutions of higher education should carry out activities to change the culture of alcohol consumption on college campuses; to the Committee on Labor and Human Resources.

By Ms. MOSELEY-BRAUN:

S. Con. Res. 80. A concurrent resolution urging that the railroad industry, including rail labor, management and retiree organization, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. GRAMS, and Mr. ASHCROFT):

S. 1711. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty tax, to increase the income levels for the 15 and 28 percent tax brackets, to provide a 1-year holding period for long-term capital gains, to index capital assets for inflation, to reduce the highest estate tax rate to 28 percent, and for other purposes; to the Committee on Finance.

THE TAX RELIEF AND DEBT REDUCTION ACT OF 1998

Mrs. HUTCHISON. Mr. President, today Senator ROD GRAMS and I are introducing the half-and-half bill. We like to say half-and-half is more than just rich milk. We want to have the plan in place so if we, in fact, have a surplus, we will start doing the responsible thing for the people of our country. We believe half should go to debt reduction, to start paying down the $5 trillion debt, and half should go to tax relief for the hard-working American family.

The Federal tax burden today is the greatest that it has been in the history of our country. In fact, 38.3 percent of the average family income is spent on taxes. That is a whale of a burden on people who are trying to raise children, trying to put them through college, and we are very pleased to try to bring down that tax burden with the half-and-half Tax Relief and Debt Reduction Act of 1998.

This is what our bill does. First, it eliminates the marriage tax penalty by allowing couples to file as singles. Mr. President, 21 million American couples today pay an average of $1,400 more because they got married. You see behind me an example, and this is a real example. A first-year schoolteacher in Houston is paid $27,000. A rookie police officer in Houston, TX starts out at $29,698. After they get married, their tax burden will be $638.44 more, just because they got married. We do not think that is right. We do not believe that Americans should have to choose between love and money. We want an equitable and fair burden on the taxpayers of this country, and we do not think that people who get married, who are both working, should have to pay more taxes.

The second thing our bill does is raise the income levels for the 15 and 28 percent tax brackets. For a single person, before he or she would move into the 28 percent bracket, it would go up to $35,000; a married couple, $50,000, and for a head of household it would be $40,000. The 28 percent bracket would be expanded for a single person to $71,050; a married couple at $109,950, and head of household $93,750

It is very important that we start giving that relief at these lower income and middle income levels, and that is what this bill will do.

The bill also repeals the 18-month capital gains holding period and makes it 12 months instead. It is a fact that our elderly people pay the most in capital gains taxes, and we think that is wrong. So we are going to try to reduce the holding period so our elderly people who may have to sell assets to live on will not be burdened any more than is absolutely necessary.

We index capital gains taxes for inflation in our bill. Taxpayers should not have to pay a capital gains tax in assets that have increased in value simply due to inflation. Last year we started this process of by allowing an exemption of $500,000 in capital gains for the sale of a home. That's a big help to an elderly person. We want to make it even easier for them.

We would cut the top estate tax rate from 55 percent to 28 percent. We believe estate taxes take away from the ability of Americans to realize the American dream of giving their children a better start.

So we are trying to bring down the tax burden on the hard-working American family. We believe it is important that people be able to keep more of the money they earn, and 38 percent of the average American's pay, salary, going to taxes, is too much of a burden. So I am very pleased Senator GRAMS has come on as the major cosponsor of this bill.

Mr. GRAMS: Mr. President, I rise today to join Senator HUTCHISON in introducing legislation to lockbox any budget surplus for tax relief and national debt reduction. Given this week's budget surplus projections, the ''Tax Relief and Debt Reduction Act of 1998'' is the right legislation at the right time.

Eighty-five years ago this week, the Internal Revenue Service began collecting the individual income tax, initiating 85 years of ever-increasing hardship for America's taxpaying families. Now, with a budget surplus closer and taxes at an all-time high, it is time that Washington let the taxpayers keep more of their own money, so that families can spend it meeting their own needs—whether that is child care, health insurance, clothing, or groceries. By dedicating half of any budget surplus to reducing the debt and the other half to family tax relief, Senator HUTCHISON's legislation protects the taxpayers of today while reducing the burden on the taxpayers of tomorrow. I commend her for her leadership on this timely issue.

Mr. President, I would like to offer some perspective into why we are introducing the ''Tax Relief and Debt Reduction Act'' today.

If it seems as though the media has a label for everyone these days, blame it on the era of the 15-second sound bite. At a point in history when many in the media consider brevity the most virtuous of virtues, journalists compete for our attention by whittling down their words into a kind of reporter's shorthand that, over time, becomes meaningless to news consumers.

The shorthand gets especially muddied when it is applied to politics. Once a person enters public office, the media is quick to toss them a label—conservative or liberal, left wing or right wing. As political realities evolve, though, the labels have less and less relevance as time goes on. They become a cliché, no longer very useful in describing a political philosophy.

I believe the American public has already moved beyond the media in breaking from the label mentality, and whether they consider it consciously, they have shifted their thinking from the old concept of liberal versus conservative to that of taxpayers versus big Government. Today, every action of the government is being evaluated by a standard that strikes home for the folks who work for a living, raise a family, and pay their taxes: does it benefit the taxpayers or does it benefit the Government?

What we have discovered through this new way of thinking is that far too often, the Government is prospering at the expense of the taxpayers. Too much faith in Government equals less freedom for families and individuals. Dependency on Government equals less independence for the governed. And as the Government prospers, we have learned that big Government does not necessarily translate into better Government—it is just bigger Government, with more bureaucracy, paid for by higher taxes.

Families today are taxed at the highest levels since World War II, with 38 percent of a typical family's budget going to pay taxes on the Federal, State, and local level. In nominal dollars, a two-income family is paying more just in taxes today than their paychecks totaled in 1977. That is nearly 50% more than they are spending for food, shelter, and clothing combined.

Taxpayers do not mind paying taxes when they can see results. In local government, the results are obvious: clean streets, police cars on patrol, regular garbage pickup. On the Federal level, the results are much less evident. Families want to believe Washington is

spending their tax dollars prudently, but when the evening newscasts focus repeatedly on the ''fleecing of America,'' they wonder: is the Government serving the taxpayers, or just serving itself?

There is no question the Federal Government is growing bigger. Contrary to the claim of President Clinton in his State of the Union address that ''we have the smallest Government in 35 years,'' the Federal Government will spend more tax dollars in 1998 than it has in the history of this nation—$1.7 trillion. That is a 19 percent increase since the President took office in 1993, although inflation during that same period has risen less than 14 percent.

The President would add thousands of new civilian federal employees and, according to an analysis of his budget by the Senate Budget Committee, $123 billion in new federal programs that would touch nearly every aspect of daily life, from our classrooms to our boardrooms to our bedrooms.

To pay for all that new government, the President calls for boosting taxes by $115 billion over the next five years. That is a massive hike that would effectively wipe out the hard-fought $85 billion tax cut Americans won under last year's Taxpayer Relief Act.

A big, expensive federal government is a bad deal for the taxpayers. It is an even worse deal for my fellow Minnesotans. A recent study conducted by the Northeast-Midwest Institute shows that Minnesota ranks 49th of 50 states in Federal dollars returned to the State. The people of Minnesota pay one of highest tax rates in the Nation, but only one other state receives less service in return from the Federal Government.

According to the National Taxpayers Union, if Congress could roll federal domestic spending back to 1969 levels, a family of four would keep $9,000 a year more of its own money than it does today. Millions of families would pay no income tax at all. Unfortunately, tax-and-spend, not tax relief and streamlining, is the policy Washington now pursues.

The most disturbing sign that the taxpayers are losing the ''taxpayers versus big government'' debate is the rush in Washington to spend a budget surplus that does not yet exist. If a surplus does develop, the Government has no claim on it because the Government did not generate it. A surplus will be borne of the sweat and hard work of the American people, and it therefore should be returned to the people as called for under the ''Tax Relief and Debt Reduction Act of 1998.''

When Washington serves itself instead of meeting the needs of its owners, the taxpayers, spending rises, taxes increase, responsibilities are neglected, and people begin to feel constricted by a Government they sense is deeply out of touch. At their urging, we have begun to turn the focus away from the smothering squeeze of big government toward families and new partnerships that move Washington from the center of the circle to another spoke along its hub. Where the Federal Government once held all the power, communities—local churches, nonprofit organizations, job providers, individual volunteers, and charities of all types—have stepped forward to work with neighbors to attack problems on the local level.

Freedom for families also means giving families the freedom to spend more of their own dollars as they choose. We have taken steps in Washington to return more of that control to working Minnesotans and all working Americans, through tax relief, beginning with passage last year of the $500 per-child tax credit.

Mr. President, the states offer us an excellent model of how we should use a future budget surplus. In recent years, many Republican governors cut taxes and shrank the size of their governments, and in the process turned budget deficits into surpluses. They are now using those surpluses to provide further tax relief. Take my own State of Minnesota, for example. When Governor Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation. Today, the State government has a $1.3 billion budget surplus. Now the Governor is using the surplus to give Minnesotans a property tax cut and an increase in the education homestead credit. Returning a future surplus to those who created it, the Nation's hardworking taxpayers, is the right way to use that surplus.

I agree with President Clinton that saving Social Security is vitally important. But I believe we can save Social Security and provide tax relief simultaneously, if we have the political will to enact sound fiscal policies. The best way to save Social Security is to stop looting the Social Security surplus to fund general Government programs, return the borrowed surplus to the trust funds, and begin real reform to change the system from ''paygo'' to one that is prefunded.

As the Federal Government has grown, it is ironic that it has grown further away from the one thing from which it derives its strength. And that is the people. In 1998, Congress and the President have the power to bring government closer to the people, to refocus its attention on serving the taxpayers, not fortifying itself. Yet, while Washington may have the power to change, does it have the resolve to change? I believe it does, because if we intend to reduce the growing burden awaiting the next generation of taxpayers, ''Failure is not an option.''

In closing, the Hutchison legislation would help move government toward the taxpayers and toward greater accountability, and I urge my colleagues to support it.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator GRAMS for taking a leadership role in this. He has been dedicated, since he was elected to the U.S. Senate, to sound fiscal policies. I think this bill is a sound approach to any surplus that we might have. I appreciate his cosponsorship.

I ask unanimous consent to add Senator ASHCROFT as a third original cosponsor of the bill.

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

Mrs. HUTCHISON. Mr. President, just to sum up. I think the Hutchison-Grams-Ashcroft half and half bill is sound policy. It is a responsible approach. If we, indeed, have worked hard and cut the deficits and will go toward a balanced budget even sooner than we thought, I think we create a great dilemma of what to do with the surplus. Because we have worked so hard and become more efficient, I hope we will take this opportunity not to backslide, not to go into more spending programs that will put us in the same situation we were before, but instead take the opportunity to start paying down the $5 trillion debt.

So this would be an opportunity to start paying down the debt and put in the pockets of hard-working Americans more of the money they earn. Thirty-eight percent of a person's income is too much to be doling out to Government programs that you may or may not think are a good priority.

So we are going to try to lessen that at the same time that we begin to pay down the debt so our children and grandchildren will not have to take from us that kind of burden. Thank you, Mr. President. I thank the managers of the bill for allowing us to take this time to introduce the bill.

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. 1711

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Half and Half: Tax Relief and Debt Reduction Act of 1998''.

(b) 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.

(c) SECTION 15 NOT TO APPLY.—No amendment made by section 3 shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

SEC. 2. COMBINED RETURN TO WHICH UNMARRIED RATES APPLY.

(a) IN GENERAL.—Subpart B of part II of subchapter A of chapter 61 (relating to income tax returns) is amended by inserting after section 6013 the following new section:

"SEC. 6013A. COMBINED RETURN WITH SEPARATE RATES.

''(a) GENERAL RULE.—A husband and wife may make a combined return of income taxes under subtitle A under which—

''(1) a separate taxable income is determined for each spouse by applying the rules provided in this section, and

''(2) the tax imposed by section 1 is the aggregate amount resulting from applying the separate rates set forth in section 1(c) to each such taxable income.

''(b) TREATMENT OF INCOME.—For purposes of this section—

''(1) earned income (within the meaning of section 911(d)), and any income received as a pension or annuity which arises from an employer-employee relationship, shall be treated as the income of the spouse who rendered the services, and

''(2) income from property shall be divided between the spouses in accordance with their respective ownership rights in such property.

''(c) TREATMENT OF DEDUCTIONS.—For purposes of this section—

''(1) except as otherwise provided in this subsection, the deductions allowed by section 62(a) shall be allowed to the spouse treated as having the income to which such deductions relate,

''(2) the deduction for retirement savings described in paragraph (7) of section 62(a) shall be allowed to the spouse for whose benefit the savings are maintained,

''(3) the deduction for alimony described in paragraph (10) of section 62(a) shall be allowed to the spouse who has the liability to pay the alimony,

''(4) the deduction referred to in paragraph (16) of section 62(a) (relating to contributions to medical savings accounts) shall be allowed to the spouse with respect to whose employment or self-employment such account relates,

''(5) the deductions allowable by section 151 (relating to personal exemptions) shall be determined by requiring each spouse to claim 1 personal exemption,

''(6) section 63 shall be applied as if such spouses were not married, and

''(7) each spouse's share of all other deductions (including the deduction for personal exemptions under section 151(c)) shall be determined by multiplying the aggregate amount thereof by the fraction—

''(A) the numerator of which is such spouse's adjusted gross income, and

''(B) the denominator of which is the combined adjusted gross incomes of the 2 spouses.

Any fraction determined under paragraph (7) shall be rounded to the nearest percentage point.

''(d) TREATMENT OF CREDITS.—Credits shall be determined (and applied against the joint liability of the couple for tax) as if the spouses had filed a joint return.

''(e) TREATMENT AS JOINT RETURN.—Except as otherwise provided in this section or in the regulations prescribed hereunder, for purposes of this title (other than sections 1 and 63(c)) a combined return under this section shall be treated as a joint return.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this section.''.

(b) UNMARRIED RATE MADE APPLICABLE.—So much of subsection (c) of section 1 as precedes the table is amended to read as follows:

''(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:''.

(c) BASIC STANDARD DEDUCTION FOR UNMARRIED INDIVIDUALS MADE APPLICABLE.—Subparagraph (C) of section 63(c)(2) is amended to read as follows:

''(C) $3,000 in the case of an individual who is not—

''(i) a married individual filing a joint return or a separate return,

''(ii) a surviving spouse, or

''(iii) a head of household, or''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter A of chapter 61 is amended by inserting after the item relating to section 6013 the following:

''Sec. 6013A. Combined return with separate rates.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. INCOME TAXED AT LOWEST RATE INCREASED TO $35,000 FOR UNMARRIED INDIVIDUALS, $40,000 FOR HEADS OF HOUSEHOLDS, AND $50,000 FOR JOINT RETURNS AND SURVIVING SPOUSES.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

''(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

''(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

''(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $50,000	15% of taxable income.
Over $50,000 but not over $109,950.	$7,500, plus 28% of the excess over $50,000.
Over $109,950 but not over $155,950.	$24,286, plus 31% of the excess over $109,950.
Over $155,950 but not over $278,450.	$38,546, plus 36% of the excess over $155,950.
Over $278,450	$82,646, plus 39.6% of the excess over $278,450.

''(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $40,000	15% of taxable income.
Over $40,000 but not over $93,750.	$6,000, plus 28% of the excess over $40,000.
Over $93,750 but not over $142,000.	$21,050, plus 31% of the excess over $93,750.
Over $142,000 but not over $278,450.	$36,007, plus 36% of the excess over $142,000.
Over $278,450	$85,129 plus 39.6% of the excess over $278,450.

''(c) SEPARATE OR UNMARRIED RETURN RATE.—There is hereby imposed on the taxable income of every individual (other than a married individual (as defined in section 7703) filing a joint return or a separate return, a surviving spouse as defined in section 2(a), or a head of household as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,000	15% of taxable income.
Over $35,000 but not over $71,050.	$5,250, plus 28% of the excess over $35,000.
Over $71,050 but not over $128,100.	$15,344, plus 31% of the excess over $71,050.
Over $128,100 but not over $278,450.	$33,029, plus 36% of the excess over $128,100.
Over $278,450	$87,155, plus 39.6% of the excess over $278,450.

''(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $25,000	15% of taxable income.
Over $25,000 but not over $54,975.	$3,750, plus 28% of the excess over $25,000.
Over $54,975 but not over $77,975.	$12,143, plus 31% of the excess over $54,975.
Over $77,975 but not over $139,225.	$19,273, plus 36% of the excess over $77,975.
Over $139,225	$41,323, plus 39.6% of the excess over $139,225.

''(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

''(1) every estate, and

''(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	15% of taxable income.
Over $1,700 but not over $4,000.	$255, plus 28% of the excess over $1,700.
Over $4,000 but not over $6,100.	$899, plus 31% of the excess over $4,000.
Over $6,100 but not over $8,350.	$1,550, plus 36% of the excess over $6,100.
Over $8,350	$2,360, plus 39.6% of the excess over $8,350.''.

(b) INFLATION ADJUSTMENT TO APPLY IN DETERMINING RATES FOR 1999.—Subsection (f) of section 1 is amended—

(1) by striking ''1993'' in paragraph (1) and inserting ''1998'',

(2) by striking ''1992'' in paragraph (3)(B) and inserting ''1997'', and

(3) by striking paragraph (7).

(c) CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking ''1992'' and inserting ''1997'' each place it appears:

(A) Section 25A(h).

(B) Section 32(j)(1)(B).

(C) Section 41(e)(5)(C).

(D) Section 42(h)(6)(G)(i)(II).

(E) Section 68(b)(2)(B).

(F) Section 135(b)(2)(B)(ii).

(G) Section 151(d)(4).

(H) Section 221(g)(1)(B).

(I) Section 512(d)(2)(B).

(J) Section 513(h)(2)(C)(ii).

(K) Section 877(a)(2).

(L) Section 911(b)(2)(D)(ii)(II).

(M) Section 4001(e)(1)(B).

(N) Section 4261(e)(4)(A)(ii).

(O) Section 6039F(d).

(P) Section 6334(g)(1)(B).

(Q) Section 7430(c)(1).

(2) Subparagraph (B) of section 59(j)(2) is amended by striking '', determined by substituting '1997' for '1992' in subparagraph (B) thereof''.

(3) Subparagraph (B) of section 63(c)(4) is amended by striking ''by substituting for'' and all that follows and inserting ''by substituting for 'calendar year 1997' in subparagraph (B) thereof 'calendar year 1987' in the case of the dollar amounts contained in paragraph (2) or (5)(A) or subsection (f).''.

(4) Subparagraph (B) of section 132(f)(6) is amended by inserting before the period '', determined by substituting 'calendar year 1992' for 'calendar year 1997' in subparagraph (B) thereof''.

(5) Paragraph (2) of section 220(g) is amended by striking '' by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(6) Subparagraph (B) of section 685(c)(3) is amended by striking '', by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(7) Subparagraph (B) of section 2032A(a)(3) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(8) Subparagraph (B) of section 2503(b)(2) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(9) Paragraph (2) of section 2631(c) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(10) Subparagraph (B) of 6601(j)(3) is amended by striking ''by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. 1-YEAR HOLDING PERIOD FOR ANY LONG-TERM CAPITAL GAIN.

(a) IN GENERAL.—Section 1(h)(4) (defining adjusted net capital gain) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(b) CONFORMING AMENDMENTS.—Section 1(h) is amended—

(1) in paragraph (6), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The term 'unrecaptured section 1250 gain' means the amount of long-term capital gain which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent.'',

(2) by striking paragraphs (8), (10), and (11),

(3) in paragraph (9), by striking ''section 1202 gain, or mid-term gain'' and inserting ''or section 1202 gain'',

(4) by redesignating paragraph (9) as paragraph (8), and

(5) by adding at the end the following:

''(8) TREATMENT OF PASS-THRU ENTITIES.—

''(A) IN GENERAL.—The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

''(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

''(i) a regulated investment company,

''(ii) a real estate investment trust,

''(iii) an S corporation,

''(iv) a partnership,

''(v) an estate or trust, and

''(vi) a common trust fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, then, for purposes of this title, the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) stock in a corporation, and

''(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) OPTIONS.—Any option or other right to acquire an interest in property.

''(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

''(D) CERTAIN PREFERRED STOCK.—Stock which is preferred as to dividends and does not participate in corporate growth to any significant extent.

''(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

''(i) an S corporation (within the meaning of section 1361),

''(ii) a personal holding company (as defined in section 542), and

''(iii) a foreign corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

''(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, increased by

''(B) the applicable inflation adjustment.

''(2) APPLICABLE INFLATION ADJUSTMENT.—The applicable inflation adjustment for any asset is an amount equal to—

''(A) the adjusted basis of the asset, multiplied by

''(B) the percentage (if any) by which—

''(i) the chain-type price index for GDP for the last calendar quarter ending before the asset is disposed of, exceeds

''(ii) the chain-type price index for GDP for the last calendar quarter ending before the asset was acquired by the taxpayer.

The percentage under subparagraph (B) shall be rounded to the nearest 1/10 of 1 percentage point.

''(3) CHAIN-TYPE PRICE INDEX FOR GDP.—The chain-type price index for GDP for any calendar quarter is such index for such quarter (as shown in the last revision thereof released by the Secretary of Commerce before the close of the following calendar quarter).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) a substantial improvement to property,

''(B) in the case of stock of a corporation, a substantial contribution to capital, and

''(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

''(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

''(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

''(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(e) CERTAIN CONDUIT ENTITIES.—

''(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

''(i) a regulated investment company (within the meaning of section 851),

''(ii) a real estate investment trust (within the meaning of section 856), and

''(iii) a common trust fund (within the meaning of section 584).

''(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

''(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

''(1) to secure or increase an adjustment under subsection (a), or

''(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

''(h) DEFINITIONS.—For purposes of this section—

''(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

''(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.''.

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

''(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1998, see section 1022(a)(1).''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to the disposition of any property the holding period of which begins after December 31, 1998.

(2) CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—The amendments made by this section shall not apply to the disposition of any property acquired after December 31, 1998, from a related person (as defined in section 1022(f)(2) of the Internal Revenue Code of 1986, as added by this section) if—

(A) such property was so acquired for a price less than the property's fair market value, and

(B) the amendments made by this section did not apply to such property in the hands of such related person.

SEC. 6. REDUCTION OF TOP ESTATE TAX RATE FROM 55 TO 28 PERCENT.

(a) IN GENERAL.—Section 2001(c) (relating to imposition and rate of tax) is amended to read as follows:

''(c) RATE SCHEDULE.—

''If the amount with respect to which the tentative tax to be computed is:	**The tentative tax is:**
Not over $10,000	18 percent of such amount.
Over $10,000 but not over $20,000.	$1,800 plus 20 percent of the excess of such amount over $10,000.
Over $20,000 but not over $40,000.	$3,800 plus 22 percent of the excess of such amount over $20,000.
Over $40,000 but not over $60,000.	$8,200 plus 24 percent of the excess of such amount over $40,000.
Over $60,000 but not over $80,000.	$13,000 plus 26 percent of the excess of such amount over $60,000.
Over $80,000	$18,200 plus 28 percent of the excess of such amount over $80,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1998.

SEC. 7. REVENUE EFFECT OF ACT NOT TO EXCEED 50 PERCENT OF FEDERAL BUDGET SURPLUS.

Not later than 90 days after the date of enactment of this Act, if the Secretary of the Treasury determines that in any of the 4 succeeding fiscal years the amendments made by this Act will result in a reduction of the estimated revenues received in the Treasury for such fiscal year in an amount in excess of 50 percent of the estimated Federal unified budget surplus (if any) for such year (determined without regard to such amendments), the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a legislative proposal to appropriately modify the provisions of the Internal Revenue Code of 1986 affected by such amendments to eliminate such excess amount. Any legislation enacted for the purpose of achieving the revenue effect of such legislative proposal submitted pursuant to this subsection shall appropriately identify such purpose.

By Mr. JEFFORDS (for himself and Mr. LIEBERMAN):

S. 1712. A bill to amend title XXVII of the Public Health Service Act and part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 to improve the quality of health plans and provide protections for consumers enrolled in such plans; to the Committee on Labor and Human Resources.

THE HEALTH CARE QUALITY, EDUCATION, SECURITY, AND TRUST ACT

Mr. JEFFORDS. Mr. President, today, I join with my good friend Senator LIEBERMAN to introduce the Health Care Quality, Education, Security, and Trust Act—''The Health Care QUEST Act''—in order to improve the quality of our nation's health care system and provide necessary consumer protections without adding significant new costs; increasing litigation; or micro managing health plans.

Over the past decade across the country, an extraordinary change has taken place in the delivery of health care. In 1996, over 67% of Americans received their health care through managed care—almost double the percentage that existed in 1990. However, this transition has not been problem-free. Many consumers worry that the quality of their health care is being sacrificed to cut costs. While the traditional fee-for-service health care system was guilty of over utilization and runaway costs, consumers did feel that they would get the necessary services, treatment, and information to recover from a serious illness or manage a chronic health problem. People are now worried that managed care only manages costs and, in effect, rations care. One consequence of this transformation is that Americans are losing confidence in the quality of care they receive from our health system.

The American Association of Health Plans' voluntary initiative to respond to these concerns, ''Putting Patients First,'' is an important step and I urge that they continue to expand this effort. Businesses, such as General Motors and GTE, have also initiated programs to improve the quality of the health care received by their employees. In addition, a number of states have already passed legislative initiatives to address many of the problems consumers have experienced with their health plans. However, I believe that Federal legislation is necessary because the Employee Retirement Income Security Act of 1974 (ERISA) prevents states from enforcing health care quality standards that relate to the employer-sponsored health benefits that 148 million Americans receive.

The Health Care QUEST Act addresses these concerns through four provisions. First, it creates a Health Quality Council to set national goals for improving health and serve as a resource for Congress and the President regarding health care quality. Second, it expands the duties and responsibilities of the Agency for Health Care Policy and Research (AHCPR) in order to develop the tools needed to measure and report health care quality. The Act also requires that employers and health plans provide enrollees with health plan information such as measures of consumer satisfaction and their right to access speciality health services. Finally, the Act calls for the establishment of the ''prudent layperson'' standard of access to emergency room care, the right to use an impartial independent external appeals process and the guarantee that a patient's health care professional is able to recommend the best treatment options and to serve as their advocate.

These provisions will help to restore consumers confidence in the quality of our nation's health care system and provide a level playing field—so that managed care plan compete on the basis of quality as well as cost. Based on an analysis by the Lewin Group, the added costs for information disclosure and external appeals requirements are extremely low. The estimated monthly cost per person for comparative information and for external appeals with a

three year phase-in is only $0.88. This cost estimate doesn't take into account the improved market efficiency and increased competition that the Lewin Group indicates will be achieved with these requirements.

Much of the debate over this issue to date in Washington has been conducted from two very divergent viewpoints. Many House members, and some in the Senate, believe we should regulate health care very closely, on a disease-by-disease or procedure-by-procedure basis. Another sizable camp believes that there is nothing wrong with the health care marketplace that can't be be sorted out by its own operation.

Obviously, I disagree. And Congress, too, disagreed when it confronted many of these issues in the Medicare program last year. Much of what I propose in the Health Care QUEST Act is contained in the ''Balanced Budget Act of 1997'' and applies to plans that enroll Medicare beneficiaries. Extending the same standards to the private sector will ensure that all Americans have the same rights and protections.

The states have developed comprehensive approaches that provide regulation for those components of the health care system under their jurisdiction. The challenge for the federal government is to define regulatory solutions for those sectors under federal control that advance the consumer choice health care market while recognizing the voluntary nature of our private system. These regulatory solutions, in my opinion, should not determine medical necessity, establish hospital lengths-of-stay, or impede private sector initiatives. Furthermore, we must not set into statute standards that would preclude efforts for continued quality improvement or fail to recognize the evolutionary nature of medical practice.

The McCarran-Ferguson Act of 1945 granted states the authority to regulate the business of insurance. However, ERISA preempted state law with regard to the regulation of employee benefit plans. While ERISA provides detailed standards for employer provided pensions, it provides only minimal standards for health plans. Currently about 41 percent of those who receive their health coverage through employer-sponsored plans are in self-insured health plans. The Health Care Quest Act follows the framework established under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by setting national standards for employer sponsored plans under ERISA and a federal floor for insurance companies to follow that states can build upon.

The Health Care QUEST Act will help to restore consumer confidence in our health care system and also promote market efficiency and accountability. I look forward to working with other Senators to enact legislation this year that establishes necessary consumer protections and sets national standards to guide our nation's market based health care reform efforts.

By Mr. HOLLINGS:

S. 1714. A bill to suspend through December 31, 1999, the duty on certain textile machinery; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. HOLLINGS. Mr. President, today, I introduce duty suspension legislation designed to permit the import of certain textile weaving machinery into the United States duty free.

The equipment to be imported is not manufactured in the United States and therefore its importation will not displace domestic sourcing. Moreover, because the product at issue is manufacturing equipment, it will assist in the creation of additional jobs in the textile industry.

I believe that this is the most appropriate use of such legislation. I am therefore hopeful that this new capacity can be used to supply both domestic and foreign needs and will increase employment in the textile industry.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1716. A bill to direct the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop an action plan to restore the Salton Sea in California and to conduct wildlife resource studies of the Salton Sea, to authorize the Secretary to carry out a project to restore the Salton Sea, and for other purposes, to the Committee on Environment and Public Works.

SONNY BONO MEMORIAL SALTON SEA RESTORATION ACT

Mrs. BOXER. Mr. President, today I am introducing the Sonny Bono Memorial Salton Sea Restoration Act. My legislation will lead to an efficient and responsible restoration of the unique Salton Sea ecosystem.

Over the years, scientists, communities and politicians alike have been trying to draw national attention to the decline of the Salton Sea. Our late friend and colleague, Representative Sonny Bono, who died in a tragic skiing accident in January, worked tirelessly to make this issue an environmental priority for this Congress. With this legislation, we can carry on that legacy.

The Salton Sea is a unique natural resource in Southern California. Created in 1905 by a breach in a levee along the Colorado River, the Salton Sea is California's largest inland body of water. It is one of the most important habitats for migratory birds along the Pacific Flyway.

For 16 months after the breach, the Colorado River flowed into a dry lakebed, filling it to a depth of 80 feet. For a time following the closure of the levee, the water levels declined rapidly as evaporation greatly exceeded inflow. A minimum level was reached in the 1920s, after which the sea once again began to rise, due largely to the importation of water into the basin for agricultural purposes from the New and Alamo Rivers.

Since there is no natural outlet for the sea at its current level, evaporation is the only way water leaves the basin. All the salts carried with water that flows into the sea have remained there, along with salts re-suspended from prehistoric/historic times by the new inundation. Salinity is currently more than 25 percent higher than ocean water, and rising.

This extreme salinity, along with agricultural and wastewater in the sea, are rapidly deteriorating the entire ecosystem. The existing Salton Sea ecosystem is under severe stress and nearing collapse, with millions of fish and thousands of bird die-offs in recent years. Birds and fish that once thrived here are now threatened with death and disease as the tons of salts and toxic contaminants that are constantly dumped into the Salton Sea become more and more concentrated and deadly over time. The local economy is also being affected by the disaster at the Salton Sea by the loss of recreational opportunities, decrease in tourism, and the impact on agriculture.

Despite the urgency of the situation, we do not have the solution at hand and, therefore, must move forward swiftly, but not hastily. The legislation I am introducing today allows the Department of Interior to adequately review all options for restoring the sea and comply with all environmental laws while also requiring tight, yet realistic, time frames.

I have been working with local and national interests and received many favorable comments on my legislation. Secretary Bruce Babbitt said, ''I have had an opportunity to review the Salton Sea legislation that Senator BOXER is introducing this morning. In my judgement, the bill as drafted reflects a more thoughtful and practical approach for addressing the serious environmental challenges that face the Salton Sea. I look forward to working with the Senator in refining and, hopefully implementing this important initiative.''

John Flicker, President of the National Audubon Society said, ''The National Audubon Society strongly endorses this legislation by Senator BOXER. This bill sets in motion a process to determine the source of the ecological crisis facing the Salton Sea and provide recommendations on how to reverse the Salton Sea's rapid deterioration.''

Senator BOXER's bill represents an important step forward in the fight to save the Salton Sea,'' said Congressman GEORGE BROWN. ''She has done an outstanding job building a consensus bill that can win local and federal support.''

And the Tellis Codekas, President of the Salton Sea Authority and President of the Coachella Valley Water District said, ''Senator BOXER is on the right track with her bill. Her legislation builds on a bipartisan local and national effort to save the Salton Sea.''

I am proud of this support. Under my legislation, Interior will report to Congress within one year on the options for restoring the Salton Sea, including a recommendation for a preferred option. Interior will review ways to reduce and stabilize salinity, stabilize surface elevation, restore the health of fish and wildlife resources and their habitats, enhance recreational use and economic development, and continue the use the Salton Sea for irrigation drainage.

Interior then has another 6 months within which it must complete all environmental compliance and permitting activities required to implement the proposal. By the end of this eighteen month period, Interior must submit a final report to Congress, at which time the authorization for construction is triggered, allowing Congress 30 legislative days to make changes in the plan, or to stop it.

We all now agree that we must take the necessary long-term and short-term steps to stabilize salinity and contaminant levels to protect the dwindling fishery resources and to reduce the threats to migratory birds. However, there is no consensus on how that should be done.

The legislation that I am introducing forces those decisions to be made in a timely manner. But, it is not necessary to waive the provisions of one of our landmark environmental laws, the National Environmental Policy Act of 1969, in order to force this process. We must deal with this situation quickly. But, we can take prompt and responsible actions within the framework of environmental laws.

I would like to thank members of the Salton Sea Authority, including the Imperial County Board of Supervisors, the Riverside County Board of Supervisors, the Imperial Irrigation District, and the Coachella Valley Water District, National Audubon Society, Department of Interior, and Congressman GEORGE BROWN for their assistance with this legislation. It is with the help and support of local and national interests that I was able to develop this consensus legislation.

In a December 23, 1998 article in USA Today, Sonny said, ''This is our last chance. If we don't move within a year or two, it will be too late.'' He was right: the clock is ticking and we must act now to find a solution. Scientists have warned that the Salton Sea will be a dead sea within fifteen years.

I am hopeful that my House and Senate colleagues and I can act quickly to ensure passage of this legislation to restore the ailing Salton Sea. This is necessary and important legislation that will not only benefit Californians and our natural heritage, but will also carry on the legacy of Representative Bono.

I ask unanimous consent that the full text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1716

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 ''Sonny Bono Memorial Salton Sea Restoration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Salton Sea, located in Imperial County and Riverside County, California, is an economic and environmental resource of national importance;

(2) the Salton Sea is a critical component of the Pacific flyway;

(3) the concentration of salinity or pollutants in the Salton Sea has contributed to the recent deaths of migratory waterfowl;

(4) the Salton Sea is critical as a reservoir for irrigation and municipal and stormwater drainage;

(5) the Salton Sea provides benefits to surrounding communities and nearby irrigation and municipal water users;

(6) remediating the Salton Sea will provide national and international benefits; and

(7) Federal, State, and local governments have a shared responsibility to assist in remediating the Salton Sea.

SEC. 3. DEFINITIONS.

In this Act:

(1) SALTON SEA AUTHORITY.—The term ''Salton Sea Authority'' means the Joint Powers Authority established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 4. SALTON SEA RESTORATION ACTION PLAN.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary, in accordance with the memorandum of understanding entered into under subsection (f), shall prepare an action plan for restoring the Salton Sea in California.

(b) CONTENTS.—The action plan shall consist of—

(1) a study of the feasibility of various alternatives for remediating the Salton Sea;

(2) the selection of 1 or more practicable and cost-effective options for remediating the Salton Sea; and

(3) the development of a remediation plan that will implement the options.

(c) OBJECTIVES.—In preparing the action plan, the Secretary shall evaluate options that will—

(1) reduce and stabilize the overall salinity of the Salton Sea to a level between 35 and 40 parts per thousand;

(2) stabilize the surface elevation of the Salton Sea to a level that is between 240 feet below sea level and 230 feet below sea level;

(3) restore habitat and reclaim water quality over the long term to promote healthy fish and wildlife resources and their habitats in the Salton Sea;

(4) enhance the potential for recreational uses and economic development of the Salton Sea; and

(5) ensure the continued use of the Salton Sea as a reservoir for irrigation and municipal and stormwater drainage.

(d) OPTIONS.—In evaluating options under the action plan, the Secretary shall—

(1) consider—

(A) using impoundments to segregate a portion of the waters of the Salton Sea in 1 or more evaporation ponds located in the Salton Sea basin;

(B) pumping water out of the Salton Sea;

(C) augmenting the flow of water into the Salton Sea;

(D) improving the quality of wastewater discharges from Mexico (including discharges from the Alamo River, the Whitewater River, and the New River) and from other water users in the Salton Sea basin;

(E) implementing any other economically feasible remediation options; and

(F) implementing any combination of the actions described in subparagraphs (A) through (E); and

(2) limit the options to economically feasible and proven technologies.

(e) FACTORS.—In evaluating the feasibility of options under the action plan, the Secretary shall consider—

(1) the ability of Federal, tribal, State, and local government sources and private entities to fund capital construction costs and annual operation, maintenance, energy, and replacement costs; and

(2) how and where to dispose, permanently and safely, of water pumped out of the Salton Sea and any salts that may be condensed and accumulated in implementing the option.

(f) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—The Secretary shall carry out the action plan under this section in accordance with a memorandum of understanding entered into with the Salton Sea Authority, the Governor of the State of California, and such other tribal or local entities as the Secretary considers appropriate.

(2) CRITERIA.—The memorandum of understanding shall, at a minimum, establish criteria for the evaluation and selection of options under this section, including criteria for determining the magnitude and practicability of costs of construction, operation, and maintenance of each evaluated option.

(g) RELATIONSHIP TO OTHER LAWS.—

(1) RECLAMATION LAWS.—

(A) IN GENERAL.—An option recommended by the action plan shall not be subject to the Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto (32 Stat. 388, chapter 1093; 43 U.S.C. 371 et seq.) (including regulations adopted under those Acts).

(B) NONREIMBURSABLE AND NONRETURNABLE.—Funds provided to carry out the option shall be considered nonreimbursable and nonreturnable.

(2) LAW OF THE RIVER.—An option recommended by the action plan—

(A) shall not supersede or otherwise affect any treaty, law, or agreement governing use of water from the Colorado River; and

(B) shall be carried out in a manner that is consistent with rights and obligation of persons under all such treaties, laws, and agreements.

(h) REPORTS.—

(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress an interim report on the findings and recommendations of the action plan, including—

(A) a summary of options considered for remediating the Salton Sea; and

(B) a recommendation of a preferred option for remediating the Salton Sea.

(2) FINAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a final report on the findings and recommendations of the action plan, including—

(A) a plan to implement the preferred option;

(B) a recommendation for sharing costs to carry out the preferred option, with (at the option of the Secretary) a different cost-sharing formula for capital construction costs than is applied to annual operation, maintenance, energy, and replacement costs; and

(C) the completion of all environmental compliance and permitting activities required for any construction activity under the preferred option.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000.

SEC. 5. SALTON SEA RESTORATION PROJECT.

(a) IN GENERAL.—Not later than 30 legislative days after the Secretary submits the final report required under section 4(h)(2), the Secretary shall have the authority to carry out a project for remediating the Salton Sea that is based on the preferred option recommended in the final report, unless otherwise directed by Congress.

(b) LEGISLATIVE DAY.—In subsection (a), the term ''legislative day'' means any day on which either House of Congress is in session.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000,000.

SEC. 6. SALTON SEA WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—Concurrently with the action plan carried out under section 4, the Secretary shall enter into contracts, grants, and cooperative agreements with Federal and non-Federal entities to conduct studies recommended by the Salton Sea Research Management Committee under subsection (b)(1), including studies of hydrology, wildlife pathology, and toxicology relating to the wildlife resources of the Salton Sea.

(b) SALTON SEA RESEARCH MANAGEMENT COMMITTEE.—

(1) IN GENERAL.—The Secretary shall establish a committee, to be known as the ''Salton Sea Research Management Committee'', to make recommendations to the Secretary on the selection of topics for studies under this section and management of the studies.

(2) MEMBERSHIP.—The Committee shall be composed of 4 members, of which—

(A) 1 member shall be appointed by the Secretary;

(B) 1 member shall be appointed by the Governor of the State of California;

(C) 1 member shall be appointed by the Torres Martinez Desert Cahuilla Tribal Government; and

(D) 1 member shall be appointed by the Salton Sea Authority.

(c) COORDINATION.—The Secretary shall ensure that studies under this section are conducted in coordination with appropriate international bodies, Federal agencies, and California State agencies, including—

(1) the International Boundary and Water Commission;

(2) the United States Fish and Wildlife Service;

(3) the Environmental Protection Agency;

(4) the California Department of Water Resources;

(5) the California Department of Fish and Game;

(6) the California Resources Agency;

(7) the California Environmental Protection Agency;

(8) the California Regional Water Quality Board; and

(9) California State Parks.

(d) PEER REVIEW.—The Secretary shall require that studies conducted under this section be subject to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000.

SEC. 7. REDESIGNATION OF SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS THE SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) IN GENERAL.—The Salton Sea National Wildlife Refuge, in Imperial County, California, shall be known and designated as the ''Sonny Bono Salton Sea National Wildlife Refuge''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, record, or other paper of the United States to the Refuge referred to in subsection (a) shall be deemed to be a reference to the ''Sonny Bono Salton Sea National Wildlife Refuge''.

SEC. 8. EMERGENCY ACTION TO STABILIZE SALTON SEA SALINITY.

If, during the conduct of studies authorized by this Act, the Secretary determines that environmental conditions at the Salton Sea warrant immediate emergency action to stabilize the salinity of the Salton Sea, the Secretary shall immediately submit a report to Congress documenting the conditions and making recommendations for their remediation, together with specific recommendations for actions to be required and the cost of the actions.

Mrs. FEINSTEIN. Mr. President, today I join my colleague Senator BOXER in introducing the Sonny Bono Memorial Salton Sea Restoration Act. This legislation is similar to that now pending in the House of Representatives, but it seeks to respond to concerns expressed by local, state and federal officials about problems with the House bill. Despite the fact that there are differences between the two versions, the time to address the problems of the Salton Sea has come, legislation will move forward promptly, and be signed into law.

I have spoken on this floor about the problems facing the Salton Sea. Now it is time to turn to how to solve those problems. The legislation introduced today reflects the work of scores of people in California concerned with the Salton Sea. It is consistent with the approach they believe is most appropriate, and it involves them in the process.

This legislation proceeds in two stages.

First, it provides funding and sets a deadline of 18 months for the conduct of additional scientific research on the problems facing the Salton Sea, for the evaluation of various projects to address these problems, for the selection of a specific project, and for the completion of the necessary environmental reviews required by the National Environmental Policy Act and the California Environmental Quality Act.

Second, it authorizes funding, subject to modification by Congress, for the implementation of the project that is chosen.

The research funded in this legislation is absolutely crucial, for the problems facing the Salton Sea are complex. Previously, most concerns expressed about the Sea related to its increasing salinity and its rising water level. More recently, however, massive die offs of fish and migratory birds have occurred, that appear to be caused by problems other than salinity.

So, in addition to determining the optimum elevation for the Sea, and the desirable level of salinity, it is important to understand the interrelationships between these two components and the pollutants that continue to flow into the Sea.

Finally, this legislation proposes a tight timetable for reaching a decision on the best project to solve the problems facing the Sea. However, it is my understanding that the Department of the Interior already has the authority and a limited amount of funding to begin additional testing and environmental review and is willing to do so. This means that an 18 month timetable is realistic. There has been deep concern that a 12 month timetable is insufficient if a sound plan is to evolve which also involves the rivers, now heavily polluted, which empty into and add contamination to the Salton Sea. Therefore, I urge all parties to begin working while this legislation moves through Congress.

Mr. President, in closing, I want to say that I look forward to working with my colleagues in the House to craft a bill that is acceptable to both bodies, a bill that will preserve and enhance the Salton Sea, a bill that is a fitting tribute to the memory of the late Congressman Sonny Bono, who cared so deeply about the Salton Sea. Thank you.

By Mr. KENNEDY:

S. 1717. A bill to amend the Immigration and Nationality Act to strengthen the naturalization process; to the Committee on the Judiciary.

THE NEW AMERICAN CITIZENSHIP ACT

Mr. KENNEDY. Mr. President, few aspects of immigration are more important than the naturalization of new Americans. Naturalization goes to the heart of those we welcome to join our country. Unlike those of us who were born in this country, naturalized immigrants are Americans by choice. Naturalization is the occasion when these new citizens embrace our nation, and our nation embraces them.

Unfortunately, America's immigrant heritage and history are under increasing attack today. Legal immigrants have been unfairly hurt by recent actions to deal with illegal immigration. Voting rights, welfare benefits, and naturalization itself are also under assault.

It now takes two to four years for immigrants to become naturalized citizens. The backlogs continue to increase. It is time to improve the naturalization process, and deal more responsibly with these important issues.

Today, Congressman GEPHARDT and I are introducing the ''New American Citizenship Act,'' because we believe legal immigrants deserve a fair, efficient and affordable way to become citizens. Our bill builds on the recent reforms by INS to reach out to potential new citizens, help them learn our history and form of government, and ensure that the naturalization process is one in which America can take pride.

Our bill provides increased services, and requires INS to reduce the naturalization process to six months with no backlogs. We encourage local communities to help in this effort, by disseminating information to community-

based organizations on the requirements of citizenship and the contents of the naturalization exam. Under our proposal, INS cannot increase the naturalization fee to more than $150 until they have shown progress in reducing the backlog.

In addition, we take specific steps to prevent fraud and abuse in the exam. We strengthen the fingerprint process to prevent the mistaken naturalization of unqualified applicants.

Each naturalization ceremony represents the continuing renewal and revitalization of our country. As Barbara Jordan said,

We are a nation of immigrants, dedicated to the rule of law. That is our history and our challenge to ourselves. . . . It is literally a matter of who we are as a nation and who we become as a people. E Pluribus Unum. Out of many, one. One people. The American people.

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. 1717

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 ''New American Citizenship Act''.

SEC. 2. DECLARATION AND PURPOSES.

(a) DECLARATIONS.—(1) Congress declares that it is the historic policy of the United States to welcome as new American citizens those legal immigrants who qualify for naturalization and who are committed to American democratic principles, our form of Government, and the Constitution of the United States.

(2) Congress reaffirms the existing statutory requirements for naturalization concerning good moral character, lawful and continuous residence in the United States, and an understanding of the English language and the history, principles, and form of Government of the United States.

(b) PURPOSES.—The purposes of this Act are to ensure that—

(1) the naturalization process of the United States properly welcomes those who are committed to American citizenship to participate fully in American civic life;

(2) the act of naturalization is reserved for those who meet the qualifications established by the Constitution and the laws and policies of the United States;

(3) individuals applying for naturalization are provided a fair, efficient, and affordable process;

(4) the backlog of pending applications for naturalization is reduced so that qualified applicants may become new American citizens within six months of applying for naturalization; and

(5) the Immigration and Naturalization Service provides adequate assistance and information to individuals applying for naturalization.

SEC. 3. BACKLOG REDUCTION.

(a) IN GENERAL.—The Attorney General shall present to Congress not later than 3 months after the date of enactment of this Act a detailed plan for substantially reducing the backlog at each district and regional office of the Immigration and Naturalization Service. The plan shall include specific target dates for reducing or eliminating the backlog, and the percentage of reduction that will be achieved by each target date.

(b) REPORT.—During each of the fiscal years 1998, 1999, 2000, and 2001, the Attorney General shall submit a monthly report to the Committees on the Judiciary of the Senate and the House of Representatives concerning the progress that is being made in meeting the targets to reduce the backlog of naturalization applications.

SEC. 4. EQUIPPING NEW AMERICANS FOR CITIZENSHIP.

(a) INTEGRITY OF TESTING PROCEDURES.—The Attorney General shall ensure that procedures utilized by the Immigration and Naturalization Service to carry out the standardized naturalization examinations include the following:

(1) ADMINISTRATION OF EXAMINATIONS.—

(A) PROCTORING.—All standardized naturalization examinations shall be proctored by an entity certified by the Immigration and Naturalization Service to perform such function. The Immigration and Naturalization Service may certify more than 1 entity to proctor naturalization examinations.

(B) SPECIAL RULE FOR ''FOR-PROFIT'' ENTITIES.—A for-profit organization shall not be allowed to administer or proctor the standardized naturalization examination if such organization also provides citizenship courses.

(2) PILOT PROGRAM.—During the 24-month period beginning on the date of enactment of this Act, the Attorney General, through a board or contractor determined by the Attorney General to be qualified to administer standardized examinations, shall test the feasibility of administering naturalization examinations to a representative sample of immigrants throughout the United States. The Attorney General shall allow for special arrangements for naturalization applicants who are homebound, in nursing homes, need expedited handling of their applications, or have other extenuating circumstances or incapacitations.

(A) REPORT.—Not later than 12 months after the institution of the pilot program under this subsection, the Attorney General shall submit a report to Congress regarding the future feasibility of the program.

(B) REQUIREMENTS OF BOARD OR CONTRACTOR.—The board or contractor selected by the Attorney General to develop and administer a standardized test under the pilot program shall—

(i) be qualified to administer standardized examinations and able to ensure the integrity of the examination process through the use of proctors or other appropriate means;

(ii) be able to offer the examination at multiple test sites located within immigrant communities;

(iii) prepare multiple versions of the naturalization examination to be used at each examination site, and must revise the examinations on at least a quarterly basis; and

(iv) have the ability to offer the examination with enough frequency to meet the needs of each community in which the examination is offered.

(C) APPEALS.—The Attorney General shall provide an appeals process to permit immigrants who fail the standardized naturalization examination under the pilot program to either have the examination results reviewed by an independent examiner or retake the examination at no cost.

(3) CONTENT OF TEST.—Any new or redesigned naturalization examination developed pursuant to this Act shall not create barriers to citizenship that did not exist under the examinations used before the enactment of this Act.

(b) PROVISION OF NATURALIZATION MATERIALS.—

(1) MATERIALS FOR HOME-STUDY.—The Attorney General through the Immigration and Naturalization Service shall make sufficient material, such as textbooks and sample questions, available at no cost to naturalization applicants who choose to study for the naturalization examination without the assistance of a citizenship course.

(2) HANDBOOK.—Upon request, and at the time of adjustment to or admission as a lawful permanent resident, the Attorney General shall provide each such individual with a handbook describing—

(A) the process for obtaining citizenship through naturalization, as well as information on the requirements for naturalization, including the good moral character and continuous residency requirements;

(B) information on the civics and English language portions of the naturalization examination; and

(C) the privileges and responsibilities of citizenship, including the right to vote only after taking the oath of allegiance.

(3) DISSEMINATION OF MATERIALS.—

(A) IN GENERAL.—The Attorney General shall widely disseminate, at no cost, to public schools and organizations that provide instruction on citizenship responsibilities and prepare applicants for the naturalization examination materials, such as textbooks, sample questions, and other information regarding the content of the naturalization examination that the Immigration and Naturalization Service determines relevant to assist such organizations in preparing applicants for the naturalization examination.

(B) DEVELOPMENT.—The materials described in this subsection shall be developed in consultation with adult educators and organizations that offer citizenship courses.

(c) EFFECTIVE DATE.—Except as provided in subsection (a)(2), this section shall take effect on the date that is 6 months after the date of enactment of this Act.

SEC. 5. PLAN FOR ENSURING EFFICIENCY AND INTEGRITY OF THE NATURALIZATION PROCESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall develop a plan for ensuring the efficiency and integrity of the naturalization process.

(b) OBJECTIVES.—The plan described in subsection (a) shall have the following objectives:

(1) To substantially increase the efficiency of the naturalization process, including the development of—

(A) a system that requires the Immigration and Naturalization Service to complete the entire naturalization process in 6 months or less; and

(B) a contingency plan the Immigration and Naturalization Service will use to accommodate sudden increases in applications, including arrangements with Congress for the rapid reprogramming of funds and positions when necessary.

(2) To increase the integrity and accuracy of naturalization, by taking steps to ensure that—

(A) the fingerprint process for naturalization applicants is as accurate and secure as possible;

(B) there is clear recourse for applicants with illegible or nonexistent fingerprints, including communication in writing from the Immigration and Naturalization Service indicating the reasons for rejection of the fingerprints, and instructions on what action, if any, the applicant must take;

(C) the integrity of the naturalization examination is maintained by ensuring that the examination is applied consistently across the United States, that it adequately tests knowledge of English and civics, and

that the examination is not subject to fraud; and

(D) Immigration and Naturalization Service offices are provided with clear guidelines to ensure consistency among offices of the Service in conducting naturalization interviews, including the institution of a standard checklist for the relevant components of the applicant's file, a uniform worksheet for offices to use in determining eligibility, and a list of examples of the offenses which disqualify applicants for naturalization.

(3) To maintain proper oversight of the naturalization process, including—

(A) development of national quality assurance procedures to facilitate effective oversight of fingerprint procedures, naturalization examination centers, and final Immigration and Naturalization Service naturalization interviews;

(B) accountability of field personnel involved in the naturalization process to Immigration and Naturalization Service headquarters;

(C) outreach by national and local Immigration and Naturalization Service naturalization offices to community groups and State and local officials for the purpose of encouraging qualified immigrants to seek United States citizenship;

(D) ensuring that applicants are treated fairly and hospitably, and that a priority is given to customer service, including increased customer service training for all naturalization adjudication officers;

(E) providing naturalization applicants with adequate information on the naturalization process, procedure, and approximate timetable for the entire naturalization process; and

(F) ensuring that Immigration and Naturalization Service offices contain sufficient waiting areas with notices of procedure and instructions in languages common to the community served by the individual office.

(4) To ensure that the naturalization process will be continually updated as new innovations emerge, such as—

(A) improved data sharing and digital fingerprint technologies; and

(B) establishment of a system for local Immigration and Naturalization Service offices to share best practices regarding the naturalization process, or ideas those offices have to improve the process, and for incorporation of these lessons into ongoing naturalization planning by the Immigration and Naturalization Service.

(c) ACCESS FOR INDIVIDUALS WITH DISABILITIES.—In redesigning the naturalization process, the Attorney General shall provide written guidance to the Immigration and Naturalization Service officers and to applicants so that individuals with disabilities are afforded reasonable accommodations throughout the naturalization process, including, but not limited to, access to Immigration and Naturalization Service facilities, testing sites, and to the English language and civics portions of the naturalization examination.

SEC. 6. DETERRING NATURALIZATION FRAUD.

The Attorney General shall ensure that the naturalization fingerprint submission process deters naturalization fraud and maintains the integrity of the program by implementing the following requirements:

(1) Except in the case of law enforcement agencies designated by the Immigration and Naturalization Service to take fingerprints for naturalization applicants, fingerprint cards shall be sent directly by the Immigration and Naturalization Service, or its designee, to the Federal Bureau of Investigation for processing, rather than returning the fingerprint card to the applicant for submission.

(2) Procuring the technology to institute electronic fingerprint checks at all Immigration and Naturalization Service offices by the fiscal year 2000.

SEC. 7. ENSURING INELIGIBLE IMMIGRANTS ARE NOT NATURALIZED.

(a) CRIMINAL HISTORY BACKGROUND CHECK.—The Immigration and Naturalization Service shall ensure that a criminal history background check with the Federal Bureau of Investigation is completed for each naturalization applicant prior to the naturalization interview, including requirements that—

(1) all fingerprints shall be sent directly to the Federal Bureau of Investigation as described in section 6;

(2) prior to each naturalization interview, every naturalization file shall contain documented evidence that a criminal background check has been completed and the results of any background check that indicates an applicant has a Federal Bureau of Investigation record have been received;

(3) the Federal Bureau of Investigation shall expeditiously conduct a criminal history background check on each applicant for naturalization, and shall provide a response describing the applicant's criminal history as reflected in the Bureau's records; and

(4) where the applicant cannot provide legible fingerprints, the Federal Bureau of Investigation shall conduct a criminal history background check based on the person's name and any other method of positive identification used by the Federal Bureau of Investigation for criminal history background checks.

(b) NATURALIZATION INTERVIEWS.—All naturalization applicants, at the time of a standardized naturalization examination or interview by an adjudications officer, shall be required to demonstrate basic ability to speak and understand words in ordinary usage in the English language, in accordance with section 312(a)(1) of the Immigration and Nationality Act, unless the applicant is exempt from the requirements of that section pursuant to section 312(b) of such Act, and at the time of interview, each adjudications officer shall—

(1) question each applicant about any arrest, charge, conviction, or imprisonment which was revealed as a result of the criminal history check;

(2) determine whether any crime which the applicant reveals he or she committed is one which would disqualify the applicant from naturalization;

(3) verify that the applicant was asked all mandatory questions during the naturalization interview;

(4) refer complex cases involving potentially disqualifying crimes to a supervisory officer for review;

(5) ensure that applicants are informed that they are not United States citizens until they take the oath of allegiance; and

(6) provide each applicant with information on the legal requirements which need to be fulfilled before such applicant can register to vote.

(c) OATH OF ALLEGIANCE REQUIREMENTS.—The Immigration and Naturalization Service shall ensure that certificates of citizenship are not to be distributed to naturalization applicants prior to taking the oath of allegiance.

SEC. 8. FUNDING AND FEES.

(a) AVAILABILITY OF FUNDS.—Of the funds appropriated to the Immigration and Naturalization Service for each of fiscal years 1999, 2000, and 2001, $100,000,000 shall be made available for backlog reduction, and technological and infrastructure changes needed to ensure the appropriate conduct of naturalization activities, including the purchase of equipment for enhanced recordkeeping and fingerprint checks, the development of testing centers, the conduct of the pilot program described in section 4(a)(2), and other purposes.

(b) LIMITATION ON FEES.—

(1) IN GENERAL.—The naturalization application fee charged by the Immigration and Naturalization Service shall not exceed $150 per applicant until the backlog of pending naturalization applications has been substantially reduced in each Immigration and Naturalization Service district.

(2) BACKLOG; SUBSTANTIALLY REDUCED.—For purposes of this section:

(A) BACKLOG.—The term ''backlog'' means naturalization applications which have been pending for longer than 6 months from the time the application was submitted to the Immigration and Naturalization Service.

(B) SUBSTANTIALLY REDUCED.—The backlog of pending naturalization applications for a fiscal year shall be considered to be ''substantially reduced'' if the number of naturalization applications in the backlog in each Immigration and Naturalization Service district at the end of the fiscal year is at least 30 percent less than the number of applications in the backlog in each district at the end of the previous fiscal year.

SEC. 9. DEFINITION.

In this Act, the term ''Attorney General'' means the Attorney General, acting through the Commissioner of Immigration and Naturalization.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 1718. A bill 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 appropriation of additional amounts for the acquisition of real and personal property; to the Committee on Energy and Natural Resources.

WEIR FARM VISITOR CENTER LEGISLATION

Mr. LIEBERMAN. Mr. President, I rise today to join my friend Senator DODD in introducing legislation that is vitally important to the future of Connecticut's only national park, the Weir Farm National Historic Site.

As my colleagues may recall, Weir Farm was the home of the great American painter J. Alden Weir, who is widely considered a leader of the American Impressionism movement of the late 19th Century. The brilliant natural beauty of Weir Farm's landscape served as the inspiration for much of Weir's art as well as the work of several other renowned Impressionists who often traveled to the farm at the time. The splendor and serenity of this place also moved Weir's descendants and other artists who later made their home at the farm to preserve much of the landscape in the pristine state that originally inspired the many painters who visited there.

Congress sought to protect this enormously valuable piece of our national heritage when it approved legislation that Senator DODD and I cosponsored in 1990 to make Weir Farm part of the National Park System and the first site to honor an American painter. This legislation (P.L. 101–485) authorized the Park Service to acquire 62

acres of the original Weir property along with several of the buildings that Weir lived and worked in and many of the original furnishings. The State of Connecticut strongly supported this project and helped make it possible by approving a $4.25 million bond issue to purchase the 60 acres of open space surrounding the Weir homestead. The legislation was also strongly endorsed by a coalition of 20 leading national conservation groups, including The Nature Conservancy, which owns a large preserve of open land adjacent to the park property that further enhances the park's conservation mission.

Today, thousands of visitors who make their way to Weir Farm each year can get lost in the tranquility of the place. They can tour the studio where Weir and his successors toiled and the classic New England barn that caught the eye of many visiting artists and that was rehabilitated with a generous appropriation from Congress. But something is missing—the art itself.

Sadly, these visitors cannot view the wonderful collection of Impressionist works that the park managers and supporters are in the process of acquiring through private donations. That is because there is simply no place to put them on the current site. The cramped historic buildings are ill-equipped to accommodate even a legitimate visitor center, let alone a museum-quality gallery. And the possibility of building an addition has rightly been ruled out of the question because it would distort the landscape and run counter to the park's mission of preserving the historic character of the property.

The legislation we are introducing today would help fill that void and help the park fulfill another critical part of its mission, which is to reunite Weir Farm's historic landscape with the rich array of art it inspired. Specifically, our bill would authorize the Park Service to go forward with its plan to acquire a neighboring property outside the park's boundary and build a full-fledged visitor center to house the collection of privately-acquired paintings from Weir, Childe Hassam, John Twachtman and several others. A companion version of this bill is being introduced in the House today as well by Congressman JIM MALONEY, who represents the district in which the park is located.

The Park Service approved this project as part of Weir Farm's long-term General Management Plan. The Park Service has already identified an ideal 13-acre site to house the visitor center, as well as an adjacent administrative and maintenance facility that was also called for under the management plan. The owners of the targeted site are willing sellers and the Trust for Public Land—with a donation from the Weir Farm Trust, the park's private partner—has generously agreed to act as an intermediary in the purchase by putting an option on the property to prevent it from being developed.

But for the project to go forward, Congress must first approve the acquisition and a one-time change in the park's boundary. Our legislation would do just that, providing the Park Service with the authority to acquire up to 15 additional acres and expand the park's boundary to include this new land. It would also raise the authorization for land acquisition included in the original Weir Farm legislation up from $1.5 million to $4 million.

The Park Service estimates that the total cost of acquiring the property for the future visitor center will be $1.6 million. Of that total, it is expected that approximately $500,000 would come from unexpended land acquisition funds already appropriated by Congress and state and private contributions. That leaves a Federal contribution in the neighborhood of $1.1 million, which the Park Service has indicated it will request in its budget for fiscal year 2000. The projected cost of building the visitor center and the adjoining administrative/maintenance facility is $4.7 million, of which approximately half would come from private sources and the other half would come from Federal funding through the Park Service.

This project not only has the strong support of the Park Service and the State of Connecticut but of the communities surrounding Weir Farm, which straddles the town line between Wilton and Ridgefield. A number of residents in Ridgefield, where the visitor center would be built, initially expressed concern about the impact the project could have on the neighborhood. But the park managers and the leaders of the Weir Farm Trust worked diligently to address those concerns and show the community that the visitor center would in no way threaten the pastoral nature of the area or significantly worsen traffic along the neighborhood's narrow, windy roads.

In fact, the friends of Weir Farm showed that this plan would actually enhance the conservation goals of the park and the community. It would prevent the historic character of the Weir property from being disturbed. And the proposed visitor center site would link the park to an additional 119 acres of contiguous open space owned by the state and the Town of Ridgefield. Also, an independent study showed that the proposed visitor center would not significantly impact the flow of traffic in the neighborhood, and the Park Service is confident that this plan provides the best long-term solution for managing transportation to the park site.

In addition to reaching out to local residents, the park managers and the Ridgefield town government collaborated closely with my office and Senator DODD's office to help us craft the bill we are introducing today in such a way as to ensure that the natural and historic character of the site would be preserved and to ensure the town maintained control over how the property was to be developed. As a result of these efforts, both the Ridgefield Planning and Zoning Commission and the Board of Selectmen formally approved this legislation late last year.

This was not an easy process, and I want to express my deep appreciation to Weir Farm's superintendent, Sarah Olson, and to the town leaders in Ridgefield for their cooperation and their commitment to reach a resolution that is for the good of both the community and the park.

The visitor center we're proposing to build will help Weir Farm realize its full potential not just as a pastoral prize but as a true cultural landmark, one that will likely attract art lovers from throughout the region and hopefully the nation to see Weir's jewel and its splendid setting.

The alternative, Mr. President, is that if this project does not move forward, we will have squandered a wonderfully unique opportunity to make Weir Farm the only place of its kind to wed art and artistic vision in this way. The Ridgefield Press and The Wilton Bulletin, the leading local newspapers, urged us not to let this opportunity slip away in a joint editorial published last year that strongly endorsed the visitor center project. ''Bringing the art to Weir Farm,'' the editors wrote, ''has the potential to turn the site into something more than a retreat for artists and hikers—allowing an unusual cultural experience of considerable depth.''

Senator DODD and I would ask our colleagues to help us seize this important opportunity by supporting this legislation, which would complete the mission we started eight years ago when we agreed to make Weir Farm part of the park system.

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. 1718

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

SECTION 1. WEIR FARM NATIONAL HISTORIC SITE, CONNECTICUT.

(a) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES.—Section 4 of the Weir Farm National Historic Site Establishment Act of 1990 (16 U.S.C. 461 note; Public Law 101–485; 104 Stat. 1171) is amended by adding at the end the following:

''(d) ACQUISITION OF LAND FOR VISITOR AND ADMINISTRATIVE FACILITIES; LIMITATIONS.—

''(1) ACQUISITION.—

''(A) IN GENERAL.—To preserve and maintain the historic setting and character of the historic site, the Secretary may acquire not more than 15 additional acres for the development of visitor and administrative facilities for the historic site.

''(B) PROXIMITY.—The property acquired under this subsection shall be contiguous to or in close proximity to the property described in subsection (b).

''(C) MANAGEMENT.—The acquired property shall be included within the boundary of the historic site and shall be managed and maintained as part of the historic site.

''(2) DEVELOPMENT.—

''(A) IN GENERAL.—The Secretary shall keep development of the property acquired under paragraph (1) to a minimum so that the character of the acquired property will

be similar to the natural and undeveloped landscape of the property described in subsection (b).

''(B) PARKING AREA.—Any parking area for the resulting visitor and administrative facility shall not exceed 30 spaces.

''(C) SALES.—Items sold in the visitor facilities—

''(i) shall be limited to educational and interpretive materials related to the purpose of the historic site; and

''(ii) shall not include food.

''(3) AGREEMENTS.—Prior to and as a prerequisite to any development of visitor and administrative facilities on the property acquired under paragraph (1), the Secretary shall enter into 1 or more agreements with the appropriate zoning authority of the town of Ridgefield, Connecticut, and the town of Wilton, Connecticut, for the purposes of—

''(A) developing the parking, visitor, and administrative facilities for the historic site; and

''(B) managing bus traffic to the historic site and limiting parking for large tour buses to an offsite location.''.

(b) INCREASE IN MAXIMUM ACQUISITION AUTHORITY.—Section 7 of the Weir Farm National Historic Site Act of 1990 (16 U.S.C. 461 note; Public Law 101–485; 104 Stat. 1173) is amended by striking ''$1,500,000'' and inserting ''$4,000,000''.

Mr. DODD. Mr. President, today I join with Senator LIEBERMAN in introducing legislation to add up to 15 acres to the Weir Farm National Historic Site in Connecticut for the creation of a visitor center and art gallery.

The new property is located in Ridgefield, Connecticut. Because the land is adjacent to undeveloped State and Town land, the non-profit Weir Farm Heritage Trust can ensure that the proposed visitor center and gallery will be in keeping with the pastoral theme of the historic site.

Eight years ago, Congress established Weir Farm as Connecticut's first national park and the only National Park Service site in the country dedicated to the celebration of an American painter. The 62 acre historic site contains the home and studio of the founder of American impressionism, J. Alden Weir and this rich landscape is the inspiration for many of his paintings.

Together, the National Park Service and the Weir Farm Heritage Trust seek to raise public awareness of the farm's historical and cultural significance and to preserve the farm's artistic tradition, while developing a world renown art collection and providing artist workshops. Through a Visiting Artists Program, several artists each year are invited to work within the surroundings of Weir Farm.

More than eleven thousand people visited Weir Farm in 1996 and almost ten thousand came in 1997. The Park Service estimates that by the year 2010, the number of visitors could increase to between 25,000–40,000. It is for these reasons that the Weir Farm Heritage Trust would like to acquire this land and convert an existing building into a visitor center and art gallery and construct a modest 30-space parking area. Language in the bill stipulates that the National Park Service will enter into a binding agreement with appropriate town zoning commissions to manage the projected increase in bus traffic and develop parking, visitor and administrative facilities.

In December, the Ridgefield, Connecticut Selectmen voted in favor of the land acquisition proposal. In November, the Ridgefield Planning and Zoning commission also voted in favor of the plan, after convening several public hearings on the matter.

This proposal is important to the people of Connecticut and all those who wish to see a bit of artistic history preserved in its natural state. I urge my colleagues to support this land acquisition proposal as well.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1719. A bill to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co; to the Committee on Energy and Natural Resources.

THE GALLATIN COMPLETION ACT OF 1998

Mr. BAUCUS. Mr. President, I rise today to announce the introduction of the Gallatin Land Consolidation Act of 1998. I am pleased to be joined in this introduction by my fellow members of the Montana delegation—Senator BURNS and Congressman HILL. The Gallatin Act is a bipartisan bill that is the culmination of years of hard work and unheralded cooperation between the Montana delegation, local communities, conservation and user groups, and all levels of government.

The consolidation of this area makes sense on many levels. In the Gallatin area, the Act will consolidate the historic checkerboard ownership that has muddied the waters of land management for years. This bill will establish logical and effective ownership and management of these lands. In the long run, consolidation will substantially reduce the cost to the Forest Service—and ultimately the taxpayer—of managing the Gallatin National Forest. By eliminating this checkerboard ownership pattern, the bill improves public access to Forest Service lands and reduces the disputes that currently arise over the proper location of property lines.

Perhaps most importantly, this bill will protect these areas so that our children can enjoy them just as we do. The checkerboard ownership pattern invites sprawling subdivisions. Whether those occur across the Taylor Fork, or north in the Bangtails, the effect is the same. The Forest Service lands will be diminished in value for wildlife and recreation as every other section of land is developed. This checkerboard development would also diminish the pristine vistas that make this area so special. By consolidating these lands, we can protect recreational opportunities, wildlife herds, our famous fisheries, and the area's beautiful scenery.

While consolidation benefits the entire Gallatin area, in the Taylor Fork alone, the benefits are awe-inspiring. This area is critical winter range for elk and moose and helps to sustain the largest contingent of grizzly bears in the lower forty-eight states. The conservation of the Taylor Fork, the Gallatin roaded area, and the Bangtails will allow for the continued historic uses that define the character of Montana such as hunting, grazing, recreation, and wildlife habitat protection.

I would like to take a minute to thank the Montana delegation for their hard work that has led to introduction of this Act. I also want to recognize and applaud the efforts of all the folks in Montana who have been instrumental in crafting this consolidation.

Local conservation and wildlife groups in Bozeman and in Butte have worked long and hard to ensure that this bill protects the fisheries and wildlife that make these lands unique. In response to their suggestions, we have crafted the bill to ensure that the public will be involved in planning the timber-for-land component of this exchange. In response to their suggestions, we have also provided for a fair and public process to determine the management direction for the acquired lands, and have included a restoration program to improve the environmental health of these lands. Together, these changes will ensure that these lands will be enjoyed by sportsmen and by all Montanans for generations to come.

And I would like to thank those in the timber industry who have worked to ensure that this exchange will protect Montana mills. The Independent Forest Products Association, who represents many of Montana's small mills has been ever vigilant to ensure that the Forest Service small business provisions are respected. In that vein, I would especially like to thank Al Kington, whose last-minute advice allowed us to craft the bill to provide extra protection for Montana's small mills.

I would also like to thank those who have worked so hard to ensure that the Taylor Fork is protected. The Rocky Mountain Elk Foundation has worked tirelessly to raise funds to purchase one of the sections in the Taylor Fork. Local land owners including the Kelsey's of the 9¼ Circle Ranch and the Patton's of the Black Butte Ranch and the other members of the Upper Gallatin Community, helped with those efforts and have been vocal advocates for conserving these lands for all Montanans.

I would also like to thank Gallatin County Commissioners Jane Jelinksi, Phil Olson and Bill Murdock. My staff met with the commissioners individually and as a group as we crafted this exchange. I appreciate their input and look forward to working with them in the future.

Big Sky Lumber, the private party to this exchange has negotiated the terms of this agreement in good faith. They have provided a number of concessions to make this exchange more responsive to public concerns. These include

agreements to providing public recreation access across their lands, protecting viewsheds in the Bridger Canyon area, and providing options to local landowners to allow them to purchase some of these lands following the exchange.

Last, but certainly not least, I would like to thank two public employees, Bob Dennee with the U.S. Forest Service, and Kurt Alt with the Montana Department of Fish, Wildlife and Parks. These two individuals have logged long hours on this exchange over the years and have been an invaluable resource for me and my staff.

However, it should be clear to all that our work is not done. As the bill moves through the legislative process, I will continue working to make sure that this consolidation is responsive to the people that it serves. I look forward to working with the Montana public to finalize this exchange and to protect these important lands.

Every once in a while, we are blessed to work on efforts for which we know our children will thank us. And the Gallatin Consolidation is one of those efforts. If we do not take this opportunity to address the problems that were created by the railroad land grants a century ago, we may never have another such opportunity. If we do not act now, these lands will be broken into smaller and smaller pieces—all to the detriment of our fish, wildlife, and cultural heritage. If we do not act now, it will be to the detriment of our children. However, if we succeed, our children and our grand children will be forever grateful.

Mr. President, I encourage my colleagues to join me in supporting this important effort. And I thank my colleague from Montana for his continued hard work and cooperation on this bill.

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. 1719

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 ''Gallatin Land Consolidation Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the land north of Yellowstone National Park possesses outstanding natural characteristics and wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest; and

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act.

SEC. 3. DEFINITIONS.

In this Act:

(1) BLM LAND.—The term ''BLM land'' means approximately 3,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term ''BSL'' means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term ''BSL land'' means approximately 55,000 acres of land (including all appurtenances to the land) owned by BSL that is proposed to be acquired by the Secretary of Agriculture, as depicted in Exhibit A to the Option Agreement.

(4) FOREST SYSTEM LAND.—The term ''Forest System land'' means approximately 28,000 acres of land (including all appurtenances to the land) owned by the United States in the Gallatin National Forest, Flathead National Forest, Deer Lodge National Forest, Lolo National Forest, and Lewis and Clark National Forest that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(5) OPTION AGREEMENT.—The term ''Option Agreement'' means the document signed by BSL, dated _____ and entitled ''Option Agreement for the Acquisition of Big Sky Lumber Co. Lands Pursuant to the Gallatin Range Consolidation and Protection Act of 1993'', and the exhibits (including an exchange agreement) and maps attached to the agreement.

SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.

(a) IN GENERAL.—Notwithstanding any other provision of law, if BSL offers title to the BSL land, including mineral interests, that is acceptable to the United States and meets the requirements of subsection (e)—

(1) the Secretary of Agriculture shall accept a warranty deed to the BSL land and a quit claim deed to the mineral interests in the BSL land;

(2) the Secretary of Agriculture shall convey to BSL, subject to valid existing rights and to such other terms, conditions, reservations, and exceptions as may be agreed on by the Secretary of Agriculture and BSL fee title to the Forest System land;

(3) the Secretary shall grant to BSL timber harvest rights to approximately 20,000,000 board feet of timber in accordance with subsection (c) and as described in Exhibit C to the Option Agreement;

(4)(A) subject to the availability of funds, the Secretary of Agriculture shall purchase the portion of the BSL land in the Taylor Fork area depicted on Exhibit D to the Option Agreement at a purchase price of not more than $6,500,000; and

(B) to extent that funds are not available, the Secretary of Agriculture shall acquire the remaining Taylor Fork sections through an exchange of assets; and

(5) the Secretary of the Interior shall convey to BSL, by patent or otherwise, subject to valid existing rights and to such other terms, conditions, reservations, and exceptions as may be agreed to by the Secretary of the Interior and BSL, fee title to the BLM land.

(b) VALUATION.—The property and other assets exchanged by BSL and the United States under subsection (a) shall be approximately equal in value, as determined by the Secretary of Agriculture.

(c) TIMBER HARVEST RIGHTS.—

(1) IN GENERAL.—Not later than December 31 of the second full calendar year that begins after the date of enactment of this Act, the Secretary shall prepare, grant to BSL, and commence administration of the timber harvest rights identified in Exhibit C to the Option Agreement.

(2) GRANTS.—

(A) IN GENERAL.—The Secretary shall grant timber harvest rights to BSL not earlier than the date that is 45 days after the date on which the Secretary issues a decision notice to grant the timber harvest rights, or, if such a decision notice is appealed, after the date of final resolution of the appeal.

(B) LIMITATION.—The Secretary may not grant timber harvest rights that are the subject of administrative appeal or litigation.

(3) ADMINISTRATION.—After timber harvest rights are granted to BSL, the decision notice for those rights and the administration of those rights in accordance with the decision notice shall not be subject to administrative appeal or judicial review.

(4) SCHEDULES.—The Secretary and BSL shall mutually develop and agree on schedules for the harvest of timber the harvest rights to which are granted to BSL in the exchange.

(5) TIMBER SALE PROGRAM.—The timber harvest rights granted under this Act—

(A) shall constitute the timber sale program for the Gallatin National Forest for the period beginning on the date of enactment of this Act and ending on December 31 of the second full calendar year that begins after that date; and

(B) shall be funded by the Secretary annually at levels that are commensurate with the preparation and administration involved in the program.

(6) SUBSTITUTION.—If circumstances, such as natural catastrophe, administrative appeals or litigation, regulatory or legal limitations, or environmental or financial circumstances, prevent the Secretary from granting the timber harvest rights identified in Exhibit C to the Option Agreement, the Secretary shall replace the value of the diminished timber harvest rights by substituting equivalent timber harvest rights volume from the same market area.

(7) OPEN MARKET.—All timber harvest rights granted to BSL in the exchange under subsection (a) shall be offered for sale by BSL through the competitive bid process.

(8) SMALL BUSINESS.—All timber harvest rights granted to BSL in the exchange shall be subject to compliance by BSL with Forest Service small business program procedures in effect as of the date of enactment of this Act, including contractual provisions for payment schedules, harvest schedules, and bonds and including the right of the highest bidder among qualified small businesses that submit minimum bids to be awarded a timber contract.

(9) COMPLIANCE WITH OPTION AGREEMENT.—The Secretary and BSL shall comply with the terms and conditions of the Option Agreement, including terms and conditions with respect to timber harvest rights included in the exchange.

(d) RIGHTS-OF-WAY.—As part of the exchange under subsection (a)—

(1) the Secretary of Agriculture, under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), shall convey to BSL such easements in or other rights-of-way over Forest System land as may be agreed to by the Secretary of Agriculture and BSL; and

(2) BSL shall convey to the United States such easements in or other rights-of-way over land owned by BSL as may be agreed to by the Secretary of Agriculture and BSL.

(e) QUALITY OF TITLE.—

(1) DETERMINATION.—The Secretary of Agriculture shall review the title for the BSL land described in subsection (a) and, within 45 days after receipt of all applicable title documents from BSL, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied or

the quality of the title is otherwise acceptable to the Secretary of Agriculture;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the title includes both the surface and subsurface estates without reservation or exception (except by the United States or the State of Montana, by patent or as otherwise agreed to by the Secretary and BSL), including—

(i) minerals, mineral rights, and mineral interests (including severed oil and gas surface rights), subject to and excepting other outstanding or reserved oil and gas rights;

(ii) timber, timber rights, and timber interests, except those reserved subject to section 251.14 of title 36, Code of Federal Regulations, by BSL and agreed to by the Secretary;

(iii) water, water rights, ditch, and ditch rights; and

(iv) any other interest in the property.

(2) CONVEYANCE OF TITLE.—

(A) IN GENERAL.—If the quality of title does not meet Federal standards or is otherwise determined to be unacceptable to the Secretary of Agriculture, the Secretary shall advise BSL regarding corrective actions necessary to make an affirmative determination under paragraph (1).

(B) TITLE TO SUBSURFACE ESTATE.—Title to the subsurface estate shall be conveyed by BSL to the Secretary of Agriculture in the same form and content as that estate is received by BSL from Burlington Resources Oil & Gas Company Inc. and Glacier Park Company.

(f) TIMING OF IMPLEMENTATION.—

(1) LAND-FOR-LAND EXCHANGE.—The Secretary of Agriculture shall accept the conveyance of land described in subsection (a) not later than 45 days after the Secretary of Agriculture has made an affirmative determination of quality of title.

(2) LAND-FOR-TIMBER EXCHANGE.—The Secretary shall make the timber harvest rights described in subsection (a)(3) available not later than December 31 of the second full calendar year that begins after the date of enactment of this Act.

(3) PURCHASE.—The Secretary of Agriculture shall complete the purchase of BSL land under subsection (a)(4) not later than 30 days after the date on which appropriated funds are made available and an affirmative determination of quality of title is made with respect to the BSL land.

SEC. 5. GENERAL PROVISIONS.

(a) MINOR CORRECTIONS.—

(1) IN GENERAL.—The Option Agreement shall be subject to such minor corrections as may be agreed to by the Secretary of Agriculture and BSL.

(2) NOTIFICATION.—The Secretary shall notify the Committee on Energy and Natural Resources of the Senate, the Committee on Resources of the House of Representatives, and each member of the Montana congressional delegation of any changes made pursuant to this subsection.

(b) PUBLIC AVAILABILITY.—The Option Agreement—

(1) shall be on file and available for public inspection in the office of the Supervisor of the Gallatin National Forest; and

(2) shall be filed with the county clerk of each of Gallatin County, Park County, Madison County, Granite County, Broadwater County, Meagher County, Flathead County, and Missoula County, Montana.

(c) STATUS OF LAND.—All land conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest and Deerlodge National Forest, as appropriate, in accordance with the Act of March 1, 1911 (commonly known as the ''Weeks Act'') (36 Stat. 961, chapter 186), and other laws (including regulations) pertaining to the National Forest System.

(d) MANAGEMENT.—

(1) PUBLIC PROCESS.—Not later than 30 days after the date of completion of the land-for-land exchange under section 4(f)(1), the Secretary shall initiate a public process to amend the Gallatin National Forest Plan and the Deerlodge National Forest Plan to integrate the acquired BSL land into the plans.

(2) PROCESS TIME.—The amendment process under paragraph (1) shall be completed not later than 360 days after the date on which the amendment process is initiated.

(3) LIMITATION.—An amended management plan shall not permit surface occupancy on the BSL land for access to reserved or outstanding oil and gas rights or for exploration or development of oil and gas.

(4) INTERIM MANAGEMENT.—Pending completion of the forest plan amendment process under paragraph (1), the Secretary shall—

(A) manage the acquired BSL land under the same standards, guidelines, and management directions as adjacent land managed by the Forest Service; and

(B) maintain all existing public access to the acquired BSL land.

(e) RESTORATION.—

(1) IN GENERAL.—After acquiring the BSL land, the Secretary shall implement a restoration program including reforestation and watershed enhancements to bring the BSL land and surrounding national forest land into compliance with Forest Service standards and guidelines.

(2) STATE AND LOCAL CONSERVATION CORPS.—In implementing the restoration program, the Secretary shall, when practicable, use partnerships with State and local conservation corps, including the Montana Conservation Corps, under the Public Lands Corps Act of 1993 (16 U.S.C. 1721 et seq.).

(f) IMPLEMENTATION.—The Secretary of Agriculture shall ensure that sufficient funds are made available to the Gallatin National Forest to carry out this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BURNS. Mr. President, I am pleased today to introduce with my colleague, Senator BAUCUS, the Gallatin Consolidation Act completion phase, know as Gallatin II (two). Our colleague, Congressman HILL, is introducing identical legislation today in the House.

The bill we have jointly introduced today is the result of much cooperation and communication among the citizens of the state of Montana, the Forest Service, the partners of Big Sky Lumber and the Montana Congressional Delegation. Ranchers, property owners, outfitters, environmentalists, county commissioners, sportsmens groups, wildlife associations and other groups have sat at the table attempting to find consensus on the difficult aspects of the exchange.

That process will continue. The introduction of this bill today does not end the public involvement. In fact, it just opens a different facet of public input. Committee hearings are next in line as we consider this legislation.

The lands the U.S. Forest Service will acquire under this act are some of the richest wildlife habitat areas in the state of Montana. Today the lands in the Gallatin National Forest are still held in a mostly checkerboard land-ownership pattern. Add into this mix a dramatic increase in residential development in rural areas near the National Forests and you have further complicated the resource problems for multiple use in our National Forests.

With this bill we are attempting to consolidate the National Forest System ownership pattern and preserve some of these corridors for wildlife, resource protection, and future generations who are fortunate enough to visit these forests.

I want to thank my colleagues, Congressman HILL and Senator BAUCUS for their participation and cooperation in formulating a delegation approach to this complex land exchange. I look forward to moving this bill forward in an efficient and timely manner so that the deadline for accomplishing the exchange can be met.

Thank you, Mr. President.

By Mr. HATCH (for himself, Mr. LEAHY, and Mr. KOHL):

S. 1720. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT COMPULSORY LICENSE IMPROVEMENT ACT OF 1998

Mr. HATCH. Mr. President, I rise to introduce a bill that will help provide for greater consumer choice and competition in television services, the Copyright Compulsory License Improvement Act of 1998. Joining me in introducing this bill are my colleagues Senators LEAHY and KOHL.

The options consumers have for viewing television entertainment have vastly increased since that fateful day in September 1927 when television inventor and Utah native Philo T. Farnsworth, together with his wife and colleagues, viewed the first television transmission in the Farnsworth's home workshop: a single black line rotated from vertical to horizontal. Both the forms of entertainment and the technologies for delivering that entertainment have proliferated over the 70 years since that day. In the 1940s and 50s, televisions began arriving in an increasing number of homes to pick up entertainment being broadcast into a growing number of cities and towns.

In the late 60s and early 70s, cable television began offering communities more television choices by initially providing community antenna system of receiving broadcast television signals, and later by offering new created-for-cable entertainment. The development of cable television made dramatic strides with the enactment of the cable compulsory license in 1976, providing an efficient way of clearing copyright rights for the retransmission of broadcast signals over cable systems.

In the 1980s, television viewers began to be able to receive television entertainment with their own home satellite equipment, and the enactment of the Satellite Home Viewer Act in 1988 helped develop a system of providing options for television service to Americans who lived in areas too remote to receive television signals over the air or via cable.

Much has changed since the original Satellite Home Viewer Act was adopted in 1988. The Satellite Home Viewer Act was originally intended to ensure that households that could not get television in any other way, traditionally provided through broadcast or cable, would be able to get television signals via satellite. The market and the satellite industry has changed substantially since 1988. Many of the difficulties and controversies associated with the satellite license have been at least partly a product of the satellite business attempting to move from a predominately need-based rural niche service to a full service video delivery competitor in all markets, urban and rural.

Now, many market advocates both in and out of Congress are looking to satellite carriers to compete directly with cable companies for viewership, because we believe that an increasingly competitive market is better for consumers both in terms of cost and the diversity of programming available. The bill I introduce today will move us toward that kind of robust competition.

The bill I introduce today is focused on changes that we can make this year to move the satellite television industry to the next level, making it a full competitor in the multi-channel video delivery market. It has been said time and again that a major, and perhaps the biggest, impediment to satellite's ability to be a strong competitor to cable is its current inability to provide local broadcast signals. (See, e.g., Business Week (22 Dec. 1997) p. 84.) This problem has been partly technological and partly legal. Today, with this bill, we hope to begin removing the legal impediments to use of the emerging technology that will make local retransmission of broadcast signals a reality.

This is a forward-looking bill which will create an incentive for companies to develop the means by which to provide local programming to local markets over satellite systems. In the next few years, if we make these legal changes, the satellite industry should be able to offer television viewers their own local programming of news, weather, sports, and entertainment, with digital quality picture and sound. This will mean that viewers in the remoter areas of my large home state of Utah will be able to watch television programming originating in Salt Lake City, rather than New York or California. Utahns in remote areas will have access to local weather and other locally and regionally relevant information. And, most important to all the constituents of my colleagues is that they will finally have a choice for full service multi-channel video programming: They will be able to choose cable or one of a number of satellite carriers. This should foster an environment of proliferating choice and lowered prices, all to the benefit of consumers, our constituents.

To that end, the ''Copyright Compulsory License Improvement Act'' makes the following changes to the Satellite Home Viewers Act:

It makes the satellite compulsory license permanent, just like the cable compulsory license. Under the current law the satellite license will sunset next year.

It allows satellite carriers to retransmit a local television station to households within that station's local market, just like cable does, and sets a zero copyright rate for providing this service.

It allows consumers to switch from cable to satellite service for network signals without the waiting period now required in the law.

It reforms the current structure of the administrative body which determines rates and distributions applicable to all copyright compulsory licenses to make it more efficient and less expensive for the parties, as well as more technically expert.

It creates substantial regulatory parity between the industries, including must-carry rules, retransmission consent requirements, network non-duplication, syndicated exclusivity, and sports blackout restrictions. These regulations will be phased in over a period of time in which the Federal Communications Commission can carefully consider and tailor their implementation. During that time, the portions of the satellite compulsory license which determine who is eligible to receive network and superstation signals from satellite carriers will continue to apply as they do now.

Mr. President, this is a forward-looking bill that establishes the environment in which there can be more vigorous and fair competition in the video delivery market. But it is constructed to be practical in the realm of achievable legislation. Let me make clear that this bill is carefully balanced to ensure competition. It will do much to put the satellite industry on a more equal footing with its competitors and other market actors, both in terms of its benefits and responsibilities.

Mr. President, let me briefly mention an issue that I think is important to touch on briefly at introduction. I am aware that there is currently controversy and even litigation over some issues relating to compliance with restrictions in the law as it is now written regarding satellite carriers providing network service. Let me make it clear that the introduction of this bill is but the beginning of a process. I would hope that this beginning is not interpreted by anyone as a license to disregard the law as it is now constituted in hopes of any future changes in the law. Our debates and discussions need to be fair and frank, and that process is not helped by abuse or disregard for current law. I would expect full compliance with and application of current law regarding the restrictions on eligibility for distant network signals or any other provisions in current law until such time as changes in the law are actually made.

Having said that, I welcome and urge my colleagues and all interested parties to join in a constructive discussion of this very important legislation. I recognize that we may be able improve this bill before final passage, but I believe the essential balance of this bill is necessary to making it achievable now. I commend it to my colleagues for their consideration and look forward to working with them to help hasten more vigorous competition in the television delivery market and the ever-widening consumer choice that will follow it.

I ask unanimous consent that the bill and an explanatory section-by-section analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 1720

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 ''Copyright Compulsory License Improvement Act''.

SEC. 2. SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 119. Limitations on exclusive rights: Secondary transmissions by satellite carriers''; and

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

''(a) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS FOR PRIVATE HOME VIEWING.—

''(1) SECONDARY TRANSMISSIONS OF DISTANT AND LOCAL BROADCAST SIGNALS SUBJECT TO STATUTORY LICENSING.—Subject to the provisions of subsections (b) and (c) of this section and section 114(d), a secondary transmission of a primary transmission made by a television broadcast station licensed by the Federal Communications Commission or by the Public Broadcasting Service satellite feed and embodying a performance or display of a work shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is permissible under the rules, regulations, and authorizations of the Federal Communications Commission and is made by a satellite carrier to the public for private home viewing; and

''(B) the carrier makes a direct or indirect charge for each retransmission service to each household receiving the secondary transmission or to a distributor that has contracted with the carrier for direct or indirect delivery of the secondary transmission to the public for private home viewing.

''(2) SUBMISSION OF SUBSCRIBER LISTS TO TELEVISION BROADCAST STATIONS.—

''(A) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary

transmission of a television broadcast station pursuant to paragraph (1) shall, within 90 days after commencing such secondary transmissions, submit to that television broadcast station—

''(i) a list identifying all subscribers within the designated market area of that television broadcast station to whom the satellite carrier has made such secondary transmissions; and

''(ii) a list of all television broadcast stations whose primary transmissions have been transmitted by the satellite carrier to those subscribers during that 90-day period.

''(B) SUBSEQUENT LISTS.—After the submission of the lists under subparagraph (A), the satellite carrier shall, on the 15th day of each month, submit to each television broadcast station—

''(i) a list, which shall be dated, that identifies the name of any subscriber described in subparagraph (A) who has been added or dropped since the last submission under this paragraph; and

''(ii) a list of all television broadcast stations whose primary transmissions have been added or dropped by the satellite carrier since the last submission under this paragraph

''(C) IDENTIFYING INFORMATION.—(i) Each list of subscribers under this paragraph shall include the name of each subscriber, together with the subscriber's home address, which shall include the street address or rural route as the case may be, city, county, State, and zip code and, if different from the subscriber's home address, the location of the subscriber's satellite receiving dish to which the secondary transmissions are made, identified by street address or rural route as the case may be, city, county, State, and zip code.

''(ii) Each list of television broadcast stations under this paragraph shall include the station's call letters and community of license.

''(iii) Subscriber information submitted under this paragraph may be used only for purposes of monitoring compliance by the satellite carrier with this section.

''(3) PENALTIES FOR NONCOMPLIANCE WITH ACCOUNTING AND ROYALTY REQUIREMENTS.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a television broadcast station licensed by the Federal Communications Commission or by the Public Broadcasting Service satellite feed and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier has not deposited the statement of account and royalties fees required by subsection (b), or has failed to make the submissions to networks required by paragraph (2).

''(4) PENALTIES FOR WILLFUL ALTERATIONS OF PROGRAMMING.—Notwithstanding the provisions of paragraph (1), the secondary transmission to the public by a satellite carrier of a primary transmission made by a television broadcast station licensed by the Federal Communications Commission or by the Public Broadcasting Service satellite feed and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by section 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

''(5) PENALTIES FOR DISCRIMINATION AGAINST DISTRIBUTOR.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a television broadcast station licensed by the Federal Communications Commission or by the Public Broadcasting Service satellite feed and embodying the performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against a distributor.

''(6) LICENSE LIMITED TO SECONDARY TRANSMISSIONS TO HOUSEHOLDS IN THE UNITED STATES.—The statutory license created by this section shall apply only to secondary transmissions to households located in the United States.''.

SEC. 3. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS FOR PRIVATE HOME VIEWING.—

''(1) DEPOSIT OF ACCOUNTS AND FEES WITH REGISTER OF COPYRIGHTS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

''(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all television broadcast stations whose signals were retransmitted, and listing the Public Broadcasting Service satellite feed, if carried, at any time during that period, to subscribers for private home viewing, the total number of subscribers that received such retransmissions, and other such data as the Register of Copyrights may from time to time prescribe by regulation; and

''(B) a royalty fee for that 6-month period for each television broadcast station whose primary transmission was retransmitted beyond the local market of the station, and for the Public Broadcasting Service satellite feed, if carried, computed by multiplying the total number of subscribers receiving the secondary transmission, and the number of subscribers receiving a secondary transmission of the Public Broadcasting Service satellite feed, during each calendar month by the rate in effect for television broadcast stations as determined under chapter 8 of this title and section 8(c) of the Copyright Compulsory License Improvement Act.

''(2) INVESTMENT OF FEES.—The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section (other than the costs deducted under paragraph (4)), shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing securities of the United States for later distribution with interest by the Copyright Royalty Adjudication Board as provided in this title. The Register may, four or more years after the close of any calendar year, close out the account for royalty payments made under this section for that calendar year (including payments made under this section as in effect before the effective date of the Copyright Compulsory License Improvement Act), and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the calendar year in which the account is closed.

''(3) PERSONS TO WHOM FEES ARE DISTRIBUTED.—The royalty fees deposited under paragraph (2) shall, in accordance with the procedures provided in paragraph (4), be distributed to those copyright owners whose works were included in a secondary transmission for private home viewing made by a satellite carrier during the applicable 6-month accounting period and who file a claim with the Board under paragraph (4).

''(4) PROCEDURES FOR DISTRIBUTION.—The royalty fees deposited under paragraph (2) shall be distributed in accordance with the following procedures:

''(A) FILING OF CLAIMS FOR FEES.—During the month of July in each year, each person claiming to be entitled to statutory license fees for secondary transmissions for private home viewing shall file a claim with the Copyright Royalty Adjudication Board, in accordance with requirements that the Board shall prescribe by regulation. For purposes of this paragraph, any claimants may agree among themselves as to the proportionate division of statutory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

''(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Adjudication Board shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Board determines that no such controversy exists, the Board shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Board finds the existence of a controversy, the Board shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

''(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Adjudication Board shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy. The action of the Board to distribute royalty fees may precede the declaration of a controversy if all parties to the proceeding file a petition with the Board requesting such distribution, except that such amount may not exceed 50 percent of the amounts on hand at the time of the request.''.

SEC. 4. DEFINITIONS.

Section 119 of title 17, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) DEFINITIONS.—As used in this section—

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given that term in section 337(g) of the Communications Act of 1934.

''(2) DISTRIBUTOR.—The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers for private home viewing or indirectly through other program distribution entities.

''(3) LOCAL MARKET.—The 'local market' for a television broadcast station has the meaning given that term in section 337(g) of the Communications Act of 1934.

''(4) PRIMARY TRANSMISSION.—The term 'primary transmission' has the meaning given that term in section 111(f) of this title.

''(5) PRIVATE HOME VIEWING.—The term 'private home viewing' means the viewing, for private use in a household by means of satellite reception equipment which is operated by an individual in that household and which serves only such household, of a secondary transmission delivered by a satellite carrier of a primary transmission of a television station licensed by the Federal Communications Commission or of the Public Broadcasting Service satellite feed.

''(6) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed by the Public Broadcasting Service (other than the transmissions that may not be encrypted under section 705(c) of the Communications Act of 1934), consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.

''(7) SATELLITE CARRIER.—The term 'satellite carrier' means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, and operates in the Fixed-Satellite Service under part 25 of title 47, Code of Federal Regulations (as in effect on February 1, 1998), or the Direct Broadcast Satellite Service under part 100 of title 47, Code of Federal Regulations (as in effect on February 1, 1998), to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

''(8) SECONDARY TRANSMISSION.—The term 'secondary transmission' means the further transmitting of a primary transmission simultaneously with the primary transmission.

''(9) SUBSCRIBER.—The term 'subscriber' means an individual who receives a secondary transmission service for private home viewing by means of a secondary transmission from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(10) TELEVISION BROADCAST STATION.—The term 'television broadcast station' means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations.''.

SEC. 5. EXCLUSIVITY OF SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 119 of title 17, United States Code, is amended by adding at the end the following:

''(e) EXCLUSIVITY FOR THIS SECTION WITH RESPECT TO SECONDARY TRANSMISSIONS OF TELEVISION STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 of this title or any other law (other than this section) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers for private home viewing of programming contained in a primary transmission may be made without obtaining the consent of the copyright owner.''.

SEC. 6. CONFORMING AMENDMENT.

The table of contents for chapter 1 of title 17, United States Code, is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions by satellite carriers.''.

SEC. 7. COPYRIGHT ROYALTY ADJUDICATION BOARD.

(a) ESTABLISHMENT AND FUNCTIONS.—Chapter 8 of title 17, United States Code, is amended to read as follows:

''CHAPTER 8—COPYRIGHT ROYALTY ADJUDICATION BOARD

''Sec.
''801. Copyright Royalty Adjudication Board: establishment.
''802. Membership and qualifications of the Board.
''803. Selection of administrative copyright judges.
''804. Independence of the Board.
''805. Removal and sanction of administrative copyright judges.
''806. Functions.
''807. Factors for determining royalty fees.
''808. Institution of proceedings.
''809. Conduct of proceedings.
''810. Judicial review.
''811. Administrative matters.
''812. Rule of construction.

''§ 801. Copyright Royalty Adjudication Board: establishment

''There is hereby established within the Copyright Office the Copyright Royalty Adjudication Board (hereinafter referred to in this chapter as the 'Board').

''§ 802. Membership and qualifications of the Board

''(a) MEMBERSHIP.—

''(1) IN GENERAL.—The Board shall consist of 1 full-time chief administrative copyright judge, and such part-time administrative copyright judges as the Librarian of Congress, upon the recommendation of the Register of Copyrights, finds necessary to conduct the business of the Board in a timely manner. At no time shall the number of authorized administrative copyright judges be less than 3 or more than 5.

''(2) PART-TIME ADMINISTRATIVE COPYRIGHT JUDGES.—Chapter 34 of title 5 shall not apply to a part-time administrative copyright judge. For purposes of this subsection the Librarian of Congress shall promulgate regulations relating to part-time employment of administrative copyright judges.

''(b) QUALIFICATIONS.—

''(1) CHIEF ADMINISTRATIVE COPYRIGHT JUDGE.—The chief administrative copyright judge shall be an attorney with 10 or more years of legal practice with demonstrated experience in administrative hearings or court trials and demonstrated knowledge of copyright law.

''(2) OTHER ADMINISTRATIVE COPYRIGHT JUDGES.—Each administrative copyright judge, other than the chief administrative copyright judge, shall be an individual with expertise in the business and economics of industries affected by the actions taken by the Board to carry out its functions.

''(c) TERMS.—(1) The term of each administrative copyright judge (including the chief administrative copyright judge) shall be 5 years, except that, of the first administrative copyright judges appointed, the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall appoint all but one of them to lesser terms to establish a staggering of terms such that in any calendar year no more than one term is due to expire.

''(2) The term of each administrative copyright judge (including the chief administrative copyright judge) shall begin when the term of the predecessor of that member ends. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is selected.

''(d) COMPENSATION.—The compensation of the administrative copyright judges shall be governed solely by the provisions of section 5376 of title 5 and such regulations as the Librarian of Congress may adopt that are not inconsistent with that section. The compensation of the administrative copyright judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

''§ 803. Selection of administrative copyright judges

''(a) SELECTION.—(1) The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall select the administrative copyright judges (including the chief administrative copyright judge) among individuals found qualified under section 802(b) who meet the financial conflict of interest under section 805(a). Notwithstanding any other provision of law and at the discretion of the Librarian, the Librarian shall determine the method of selecting the members.

''(2) Administrative copyright judges previously selected by the Librarian of Congress may be selected to serve additional terms. There shall be no limit on the number of terms any individual may serve.

''(b) EFFECT OF VACANCY.—In no event shall a vacancy in the Board impair the right of the remaining administrative copyright judges to exercise all of the powers of the Board.

''§ 804. Independence of the Board

''(a) IN GENERAL.—The Board shall have independence in reaching its determinations concerning the adjustment of copyright royalty rates, the distribution of copyright royalties, the acceptance or rejection of royalty claims and rate adjustment petitions, and such rulemaking functions as are delegated to it under this title.

''(b) PERFORMANCE APPRAISALS.—Notwithstanding any other provision of law or any regulation of the Library of Congress, no administrative copyright judge shall receive an annual performance appraisal.

''(c) INCONSISTENT DUTIES BARRED.—No administrative copyright judge may be assigned duties inconsistent with his or her duties and responsibilities as a administrative copyright judge.

''§ 805. Removal and sanction of administrative copyright judges

''(a) STANDARDS OF CONDUCT.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the administrative copyright judges and the proceedings under this chapter.

''(b) REMOVAL OR SANCTION.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, may remove or sanction an administrative copyright judge for violation of the standards of conduct adopted under subsection (a), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such removal or sanction may be made only after notice and opportunity for hearing, but the Librarian of Congress, upon the recommendation of the Register of Copyrights, may suspend the administrative copyright judge during the pendency of such hearing.

''§ 806. Functions

''Subject to the provisions of this chapter, the functions of the Board shall be—

''(1) to make determinations concerning the adjustment of reasonable copyright royalty rates for—

''(A) secondary transmissions to the public by a cable system of a primary transmission as provided in section 111;

''(B) the making and distributing of phonorecords by means other than digital phonorecord delivery, as provided in section 115;

''(C) secondary transmissions to the public by a satellite carrier of a primary transmission made by a television broadcast station and the Public Broadcasting Service satellite feed as provided in section 119; and

''(D) each digital audio recording device imported into and distributed in the United States or manufactured and distributed into the United States as provided in section 1004;

''(2) to make determinations as to reasonable rates and terms of royalty payments for—

''(A) the public performance of a sound recording by means of a digital audio transmission as provided in section 114;

''(B) the making and distribution of phonorecords by means of a digital phonorecord delivery as provided in section 115;

''(C) the public performance of nondramatic musical works by means of coin-operated phonorecord players as provided in section 116; and

''(D) the use of nondramatic musical works and pictorial, graphic, and sculptural works by public broadcasting entities as provided in section 118;

''(3) to accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim;

''(4) to determine, in cases where controversy exists, the distribution of royalty fees deposited with the Register of Copyrights under sections 111, 119, and 1003;

''(5) to determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010; and

''(6) to engage in such rulemaking as is expressly provided in sections 111, 114, 115, 118, and 119.

''§ 807. Factors for determining royalty fees

''(a) FOR CABLE RATES.—The rates applicable under section 111 shall be calculated solely in accordance with the following provisions:

''(1) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

''(A) national monetary inflation or deflation, or

''(B) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of October 19, 1976, except that—

''(i) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

''(ii) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Board may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

''(2) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcasting signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Board shall consider, among other factors, the economic impact on copyright owners and users, except that no adjustment in royalty rates shall be made under this paragraph with respect to any distant signal equivalent or fraction thereof represented by—

''(A) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or

''(B) a television broadcast signal first carried after April 15 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

''(3) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sport program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

''(4) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

''(b) FOR RATES OTHER THAN CABLE OR SATELLITE CARRIERS.—The rates applicable under sections 114, 115, and 116 shall be calculated to achieve the following objectives:

''(1) To maximize the availability of creative works to the public.

''(2) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

''(3) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communications.

''(4) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

''(c) FOR RATES FOR NONCOMMERCIAL BROADCASTING.—The rates applicable under section 118 shall be calculated to achieve reasonable rates. In determining reasonable rates, the Board shall base its decision so as to—

''(1) assure a fair return to copyright owners;

''(2) encourage the growth and development of public broadcasting; and

''(3) encourage musical and artistic creation.

''(d) RATES FOR SATELLITE CARRIERS.—The rates applicable under section 119 shall be calculated to represent most clearly the fair market value of secondary transmissions. In determining the fair market value, the Board shall base its decision on economic, competitive, and programming information presented by the parties, including—

''(1) the competitive environment in which such programming is distributed, the cost for similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

''(2) the economic impact of such fees on copyright owners and satellite carriers; and

''(3) the impact on the continued availability of secondary transmissions to the public.

''§ 808. Institution of proceedings

''(a) PETITION REQUIRED TO INSTITUTE PROCEEDINGS.—With respect to proceedings concerning the adjustment of royalty rates as provided in sections 111, 114, 115, 116, and 119, during the calendar years or under the circumstances specified in the schedule set forth in subsection (c), any owner or user of a copyrighted work whose royalty rates are to be established or adjusted by the Board may file a petition with the Board declaring that the petitioner requests an adjustment of the rate. The Board shall make a determination as to whether the petitioner has a significant interest in the royalty rate in which an adjustment is requested. If the Board determines that the petitioner has a significant interest, the Board shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings concerning the adjustment of royalty rates under section 1004, any interested copyright party may petition the Board as provided in that section.

''(b) PETITION NOT REQUIRED TO INSTITUTE PROCEEDINGS.—With respect to proceedings concerning the adjustment of royalty rates as provided in section 118 and the distribution of royalties as provided in section 111, 119, and 1007, no petition is required to institute proceedings. All proceedings concerning the adjustment of rates under section 118 shall commence as provided in section 118(c) of this title. All proceedings concerning the distribution of royalties under section 111, 119, or 1007 shall commence as provided in such sections and in subsection (c)(8) of this section.

''(c) SCHEDULE OF PROCEEDINGS.—

''(1) SECTION 111 PROCEEDINGS.—In proceedings concerning the adjustment of royalty rates as provided in section 111, a petition described in subsection (a) may be filed during the year 2000 and in each subsequent fifth calendar year, except that in the event that the rules and regulations of the Federal Communications Commission are amended with respect to distant signal importation, or to syndicated and sports program exclusivity, any owner or user of a copyrighted work subject to the royalty rates established or adjusted pursuant to section 111 may, within 12 months after such amendments take effect, file a petition with the Board to institute proceedings to insure that the rates are reasonable in light of the changes to such rules and regulations. Any such adjustments shall apply only to the affected television broadcast signals carried on those systems affected by the change. Any change in royalty rates made pursuant to this subsection may be reconsidered in the year 2000, and each fifth calendar year thereafter, as the case may be.

''(2) SECTION 114 PROCEEDINGS.—In proceedings concerning the adjustment of royalty rates and terms as provided in section 114, the Board shall proceed when and as provided by that section.

''(3) SECTION 115 PROCEEDINGS.—In proceedings concerning the adjustment of royalty rates and terms as provided in section 115, a petition described in subsection (a) may be filed in the year 2007 and in each subsequent tenth calendar year or as prescribed in section 115(c)(3).

''(4) SECTION 116 PROCEEDINGS.—(A) In proceedings concerning the adjustment of royalty rates as provided in section 116, a petition described in subsection (a) may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire or are not replaced by subsequent agreements.

''(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Board, upon petition filed under subsection (a) within 1 year after such termination or expiration, shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of the proceedings to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

''(5) SECTION 118 PROCEEDINGS.—In proceedings concerning the adjustment of royalty rates and terms as provided in section 118, the Board shall proceed when and as provided by that section.

''(6) SECTION 119 PROCEEDINGS.—In proceedings concerning the adjustment of royalty rates governing secondary transmissions of as provided in section 119, a petition described in subsection (a) may be filed during the year 2001 and in each subsequent fifth calendar year.

''(7) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—In proceedings concerning the distribution of royalty fees under section 111, 119, or 1007, the Board shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

''§ 809. Conduct of proceedings

''(a) BOARD PROCEEDINGS.—The Board shall, for the purposes of making its determinations in carrying out the functions set forth in section 806, conduct proceedings subject to subchapter II of chapter 5 of title 5.

''(b) PROCEDURES.—Subject to the approval of the Register of Copyrights, the Board, shall adopt regulations to govern the conduct of the proceedings of the Board. The regulations shall include, but not be limited to, provisions for—

''(1) public access to and inspection of the records of the Board pursuant to section 706;

''(2) the right of the public to attend the proceedings of the Board;

''(3) the procedures to apply when formal hearings are conducted; and

''(4) the procedures to apply and the basis upon which distribution or royalty controversies may be decided on the basis of written pleadings.

''(c) PARTICIPATION OF COPYRIGHT OFFICE.—During the conduct of proceedings, the Register of Copyrights may file formally with the Board the position of the Copyright Office on any matter before the Board. Such filings shall be served on all parties to the proceeding. The Board may accept or reject the position of the Copyright Office.

''(d) MAJORITY RULE.—The Board shall act in all procedural and substantive matters on the basis of majority rule.

''(e) NUMBER OF PRESIDING JUDGES.—The Board shall decide, in its discretion, whether 1 or 3 administrative copyright judges shall preside in a royalty distribution or rate adjustment proceeding. In no event shall the number of presiding administrative copyright judges be more than 3.

''(f) PARTICIPATION OF PARTIES.—Any copyright owner who has filed an acceptable claim claiming entitlement to the distribution of royalties, or any copyright owner or user who would be affected by a royalty rate to be established or adjusted by the Board, may submit relevant information and proposals to the Board in proceedings applicable to the interest of the copyright owner or user.

''(g) TIME LIMITS FOR INITIAL DECISION.—Proceedings under section 118 operate under the time limits established in that section. For all other proceedings, if 1 administrative copyright judge is presiding in a proceeding, the Board shall issue its initial decision to the parties to the proceeding and the Register of Copyrights within 6 months after the declaration of a controversy in the proceeding. If more than 1 administrative copyright judge is presiding in a proceeding, the Board shall issue its initial decision to the parties to the proceeding and the Register of Copyrights within 1 year after the declaration of a controversy in the proceeding.

''(h) REQUIREMENTS FOR INITIAL DECISIONS.—The initial decision under subsection (g) shall include a statement of findings and conclusions and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record. The initial decision shall take into account prior decisions of the Copyright Royalty Tribunal, prior decisions of copyright arbitration royalty panels, as adopted or modified by the Librarian of Congress, and the procedural and evidentiary rulings the Librarian of Congress made that were applicable to the proceedings of the copyright arbitration royalty panels. Notwithstanding any provision of section 603 or 604 of title 5, neither the initial decision nor the final decision is required to include a regulatory flexibility analysis.

''(i) PETITIONS FOR RECONSIDERATION AND FINAL AGENCY ACTION.—Any party to the proceeding concerned or the Register of Copyrights may petition the Board to reconsider its initial decision in the proceeding. If there are no petitions for reconsideration, the initial decision becomes the final decision of the Board without further proceedings. If there are petitions for reconsideration, the Board shall issue a final decision to the parties to the proceeding and the Register of Copyrights which shall constitute final agency action. The time period by which parties to the proceeding or the Register of Copyrights may file a petition for reconsideration and the time period by which the Board shall render its final decision shall be established by regulation by the Board, subject to the approval of the Register of Copyrights.

''§ 810. Judicial review

''(a) APPEALS.—Within 1 week after the Board issues a final decision under section 809, or, if there are no petitions for reconsideration, within 1 week after the time the initial decision of the Board under section 809 becomes the final decision, the Board shall cause to be published in the Federal Register the decision of the rate adjustment or the royalty distribution, as the case may be. Any aggrieved party who would be bound by the final decision may appeal the decision to the United States Court of Appeals for the Federal Circuit within 30 days after the publication of the decision in the Federal Register. In any appeal to which the Board is a party, the chief administrative copyright judge shall refer the conduct of the litigation in defense of the Board's decision to the Department of Justice which shall have the authority to represent the Board under section 516 of title 28. If no appeal is brought within such 30-day period, the decision of the Board is final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in the decision. The pendency of an appeal under this subsection shall not relieve persons who would be affected by the determinations on appeal under section 111, 114, 115, 116, 118, 119, or 1003, of the obligation to deposit the statement of account or to pay royalty fees specified in those sections.

''(b) REVIEW SUBJECT TO CHAPTER 7 OF TITLE 5.—The judicial review of the Board's final decision shall be had, in accordance with chapter 7 of title 5, on the basis of the record before the Board.

''§ 811. Administrative matters

''(a) ADMINISTRATIVE SUPPORT.—The Library of Congress, upon the recommendation of the Register of Copyrights, shall provide the Board with the necessary administrative services and personnel related to proceedings under this title.

''(b) AUTHORITY TO PUBLISH IN FEDERAL REGISTER.—The actions of the Board which may be published in the Federal Register by and under the authority of the Board include—

''(1) actions of the Board required to be published in the Federal Register under this title;

''(2) actions of the Board required to be published in the Federal Register under regulations adopted by the Board upon the approval of the Register of Copyrights; and

''(3) regulations of the Board required to be published in the Federal Register to which the Board has been delegated the exclusive right to adopt.

''(c) COLLECTION AND USE OF FEES.—

''(1) DEDUCTION OF COSTS FROM FEES.—The Librarian of Congress and the Register of Copyrights may, to the extent not otherwise provided under this title, deduct from the royalty fees deposited or fees collected under this title the reasonable costs incurred by the Library of Congress and the Copyright Office under this chapter. Such deduction may be made before the fees are distributed to any copyright owner.

''(2) COLLECTION OF FEES.—The Register of Copyrights may impose and collect fees in advance to carry out the ratemaking proceedings. All fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriations for necessary expenses of the Copyright Office. Such fees that are collected shall remain available until expended. The Register may refund any sum paid by mistake or in excess of the fee required under this section.

''(d) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act of 1994 shall not apply to the members of the Board, employee positions in the Board, or employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 114, 115, 116, 118, or 119 or chapter 10.

''(e) BUDGET.—In each annual request for appropriations, the Register of Copyrights shall identify the portion thereof intended for the support of the Board and a statement

which shall include an assessment of the budgetary needs of the Board.

''(f) ANNUAL REPORT.—The Board shall prepare an annual report of its work and accomplishments during each fiscal year, which the Register of Copyrights shall include in the annual report required under section 701(c).

''§ 812. Rule of construction

''Nothing in this chapter shall be construed to affect the authority of the Register of Copyrights to establish regulations under sections 701 and 702.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF CHAPTERS.—The item relating to chapter 8 in the table of chapters for title 17, United States Code, is amended to read as follows:

''8. Copyright Royalty Adjudication Board ..... 801''.

(2) JURISDICTION OF FEDERAL CIRCUIT.—Section 1295(a) of title 28, United States Code, is amended—

(A) in paragraph (13) by striking ''and'' after the semicolon;

(B) in paragraph (14) by striking the period and inserting a semicolon and ''and ''; and

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

''(15) of an appeal from a final decision of the Copyright Royalty Adjudication Board under sections 809(i) and 810 of title 17.''.

SEC. 8. TRANSITION PROVISIONS.

(a) TRANSITIONAL PROCEDURES.—During the period beginning on the date of the enactment of this Act and ending on the effective date of this Act, the Register of Copyrights shall adopt regulations to govern proceedings under chapter 8 of title 17, United States Code, as amended by section 7 of this Act. Such regulations shall remain in effect unless and until the Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights, adopts supplemental or superseding regulations pursuant to section 809(b) of title 17, United States Code.

(b) PROCEEDINGS IN PROGRESS.—

(1) COPYRIGHT ARBITRATION ROYALTY PANEL PROCEEDINGS.—Unless the Register of Copyrights, for good cause, finds otherwise, proceedings in which a copyright arbitration royalty panel has been convened by the Librarian of Congress under chapter 8 of title 17, United States Code, as in effect before the effective date of this Act, shall continue in effect and shall be governed under chapter 8 of such title, and applicable regulations, as in effect prior to such effective date, and proceedings in which a copyright arbitration royalty panel has not been convened by the Librarian of Congress under chapter 8 of title 17, United States Code, before the effective date of this Act shall be suspended and recommenced under the amendments made by section 7.

(2) CONTINUED PROCEEDINGS.—For those proceedings continued under paragraph (1), the functions of the Librarian of Congress and the Register of Copyrights relating to the report of the copyright arbitration royalty panel under title 17, United States Code, as in effect before the effective date of this Act, may, in the Librarian's discretion, upon the recommendation of the Register of Copyrights, be delegated to the Copyright Royalty Adjudication Board, when constituted.

(3) APPEALS.—In any appeal of a decision of the Librarian of Congress adopting or rejecting a determination of a copyright arbitration royalty panel which is pending in the United States Court of Appeals for the District of Columbia Circuit on or after the effective date of this Act, if such case is remanded by the court, the Librarian of Congress shall not reconvene the copyright arbitration royalty panel which rendered the determination, but shall direct the Copyright Royalty Adjudication Board, when constituted, to conduct proceedings in accordance with the directions of the court. If the case is remanded by the court after the enactment date of this Act but before the effective date of this Act, the Librarian of Congress shall have the discretion to reconvene the copyright arbitration royalty panel which rendered the determination, or direct the Copyright Royalty Adjudication Board when constituted, to conduct proceedings in accordance with the directions of the court.

(c) EFFECTIVENESS OF EXISTING RATES AND DISTRIBUTIONS.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made by the Copyright Royalty Tribunal, copyright arbitration royalty panels, or by voluntary agreement, before the effective date of this Act, shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.

(d) TRANSFER OF APPROPRIATIONS.—All unexpended balances of appropriations made by the Copyright Office for the support of the copyright arbitration royalty panels, as of the effective date of this Act, are transferred on such effective date to the support of the Copyright Royalty Arbitration Board for the purposes for which such appropriations were made except that, in the event that any copyright arbitration royalty panels continue to operate after the effective date of this Act, the Register of Copyrights shall retain such portions of the unexpended balances of appropriations as are necessary to support the continuing copyright arbitration royalty panels.

SEC. 9. AMENDMENTS TO OTHER PROVISIONS OF TITLE 17, UNITED STATES CODE.

(a) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) of title 17, United States Code, is amended—

(1) in paragraph (2) in the last sentence by striking ''Librarian of Congress'' and all that follows through the end of the sentence and inserting the following: ''Copyright Royalty Adjudication Board as provided in this title. The Register of Copyrights may, 4 or more years after the close of any calendar year, close out the account for royalty payments made for that calendar year, and may treat any funds remaining the such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.''; and

(2) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking ''Librarian of Congress'' the first place it appears and inserting ''Copyright Royalty Adjudication Board''; and

(ii) by striking ''Librarian of Congress'' the second place it appears and inserting ''Board'';

(B) in subparagraph (B)—

(i) by striking ''Librarian of Congress shall, upon the recommendation of the Register of Copyrights'' and inserting ''Copyright Royalty Adjudication Board shall'';

(ii) by striking ''Librarian'' each subsequent place it appears and inserting ''Board''; and

(iii) in the last sentence by striking ''convene a copyright royalty arbitration panel'' and inserting ''conduct a proceeding''; and

(C) in subparagraph (C)—

(i) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board''; and

(ii) by adding at the end the following: ''The action of the Board to distribute royalty fees may precede the declaration of a controversy if all parties to the proceeding file a petition with the Board requesting such distribution, except that such amount may not exceed 50 percent of the amounts on hand at the time of the request.''.

(b) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1)—

(A) by amending the first sentence to read as follows: ''During the first week of January, 2000, the Copyright Royalty Adjudication Board shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining or adjusting reasonable terms and rates of royalty payments for the activities specified in subsection (d)(2) of this section.''; and

(B) in the third sentence by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board'';

(2) by striking paragraphs (2), (3), and (4) and inserting the following:

''(2) In the absence of license agreements negotiated under paragraph (1), during the 60-day period beginning 6 months after publication of the notice specified in paragraph (1), and upon the filing of a petition in accordance with section 808(a), the Copyright Royalty Adjudication Board shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms. In addition to the objectives set forth in section 807(a) in establishing or adjusting such rates and terms, the Board may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements negotiated as provided in paragraph (1). The Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights, shall also establish requirements by which copyright owners may receive reasonable notice of the use of their sound recordings under this section, and under which records of such use shall be kept and made available by entities performing sound recordings.

''(3) License agreements voluntarily negotiated at any time between 1 or more copyright owners of sound recordings and 1 or more entities performing sound recordings shall be given effect in lieu of any determination by the Copyright Royalty Adjudication Board.

''(4) Publication of a notice of the initiation of voluntary negotiation proceedings as specified in paragraph (1) and the procedures specified in paragraph (2) shall be repeated, in accordance with regulations that the Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights, shall prescribe—

''(A) no later than 30 days after a petition is filed by any copyright owners of sound recordings or any entities performing sound recordings affected by this section indicating that a new type of digital audio transmission service on which sound recordings are performed is or is about to become operational; and

''(B) during the first week of January 2005 and at 5-year intervals thereafter.''; and

(3) in paragraph (5)(A)(i) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights,''.

(c) COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS.—Section 115(c)(3) of title 17, United States Code, is amended—

(1) in subparagraph (C)—

(A) by amending the first sentence to read as follows: ''At the times established in subparagraph (F), the Copyright Royalty Adjudication Board shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings

for the purpose of determining reasonable terms and rates of royalty payments for the activities specified in subparagraph (A) until the effective date of any new terms and rates established pursuant to this subparagraph or subparagraph (D) or (F), or such other date (regarding digital phonorecord deliveries) as the parties may agree.'';

(B) in the third sentence by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board'';

(2) by amending subparagraph (D) to read as follows:

''(D) In the absence of license agreements negotiated under subparagraphs (B) and (C), upon the filing of a petition in accordance with section 808(a), the Copyright Royalty Adjudication Board shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms. Such rates and terms shall distinguish between—

''(i) digital phonorecord deliveries where the reproduction or distribution of a phonorecord is incidental to the transmission which constitute the digital phonorecord delivery, and

''(ii) digital phonorecord deliveries in general.

In addition to the objectives set forth in section 807(a), in establishing or adjusting rates and terms, the Board may consider rates and terms under voluntary license agreements negotiated as provided in subparagraphs (B) and (C). The Board, upon the approval of the Register of Copyrights, shall also establish requirements by which copyright owners may receive reasonable notice of the use of their works under this section, and under which records of such use shall be kept and made available by persons making digital phonorecord deliveries.'';

(3) in subparagraph (E)(i) in the first sentence by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board''; and

(4) in subparagraph (F) by striking ''Librarian of Congress'' and inserting '' Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights,''.

(d) NEGOTIATED LICENSES FOR PUBLIC PERFORMANCES BY MEANS OF COIN-OPERATED PHONORECORD PLAYERS.—Section 116 of title 17, United States Code, is amended—

(1) by amending subsection (b)(2) to read as follows:

''(2) RATE ADJUSTMENT PROCEEDING.—Parties not subject to such a negotiation may determine, by a rate adjustment proceeding in accordance with the provisions of chapter 8, the terms and rates and the division of fees described in paragraph (1).''; and

(2) in subsection (c)—

(A) in the subsection heading by striking ''COPYRIGHT ROYALTY ARBITRATION PANEL'' and inserting ''COPYRIGHT ROYALTY ADJUDICATION BOARD''; and

(B) by striking ''a copyright arbitration royalty panel and inserting ''the Copyright Royalty Adjudication Board''.

(e) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) in paragraph (1), as so redesignated, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board'';

(C) in paragraph (2), as so redesignated—

(i) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (1)'';

(ii) by striking ''Librarian of Congress'' the first place it appears and inserting ''Copyright Royalty Adjudication Board'';

(iii) by striking ''Librarian of Congress'' the second and third places it appears and inserting ''Board''; and

(iv) by striking ''Librarian of Congress'' the last place it appears and inserting ''Board, upon the approval of the Register of Copyrights,'';

(2) in subsection (c)—

(A) by striking ''1997'' and inserting ''2002''; and

(B) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Adjudication Board, upon the approval of the Register of Copyrights,'';

(3) in subsection (d)—

(A) by striking ''(b)(2)'' and inserting ''(b)(1)''; and

(B) by striking ''a copyright arbitration royalty panel under subsection (b)(3)'' and inserting ''the Copyright Royalty Adjudication Board under subsection (b)(2)''; and

(4) in subsection (e), by striking paragraphs (1) and (2).

(f) DIGITAL AUDIO RECORDING DEVICES AND MEDIA.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) of title 17, United States Code, is amended in the third sentence—

(A) by striking ''the 6th year after the effective date of this chapter'' and inserting ''1998'';

(B) by striking ''Librarian of Congress'' the first place it appears and inserting ''Copyright Royalty Adjudication Board''; and

(C) by striking ''Librarian of Congress'' the second place it appears and inserting ''Board''.

(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) of title 17, United States Code, is amended by striking ''Librarian of Congress shall convene a copyright arbitration royalty panel which'' and inserting ''Copyright Royalty Adjudication Board''.

(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking ''after the calendar year in which this chapter takes effect'';

(ii) by striking ''Librarian of Congress'' the first place it appears and inserting ''Copyright Royalty Adjudication Board''; and

(iii) by striking ''Librarian of Congress'' the second place it appears and inserting ''Board'';

(B) in subsection (b)—

(i) by amending the first sentence to read as follows: ''After the first day of March of each year, the Copyright Royalty Adjudication Board shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c).''; and

(ii) by striking ''Librarian of Congress'' each place it appears and inserting ''Board''; and

(C) in subsection (c)—

(i) by amending the first sentence to read as follows: ''If the Copyright Royalty Adjudication Board finds the existence of a controversy, the Board shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments.'';

(ii) by striking ''Librarian of Congress'' each place it appears and inserting ''Board''; and

(iii) by striking ''Librarian under this section'' and inserting ''Board under this section. The action of the Board to distribute royalty fees may precede the declaration of a controversy if all parties to the proceeding file a petition with the Board requesting such distribution, except that such amount may not exceed 50 percent of the amounts on hand at the time of the request.''.

(4) ADJUDICATION OF CERTAIN DISPUTES.—Section 1010 of title 17, United States Code, is amended—

(A) by amending the section heading to read as follows:

''§ 1010. Adjudication of certain disputes'';

(B) in subsection (a)—

(i) in the subsection heading by striking ''ARBITRATION'' and inserting ''ADJUDICATION''; and

(ii) by striking ''mutually agree to binding arbitration for the purpose of determining'' and inserting ''petition the Copyright Royalty Adjudication Board to determine'';

(C) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(D) in subsection (b), as so redesignated, by striking ''arbitration'' each place it appears and inserting ''adjudication'';

(E) by amending subsection (c), as so redesignated, to read as follows:

''(c) ADJUDICATION PROCEEDING.—The Copyright Royalty Adjudication Board shall conduct an adjudication proceeding with respect to the matter concerned, pursuant to chapter 8 of this title. The parties to the proceeding shall bear the entire costs thereof in such manner and proportion as the Board shall direct.''; and

(F) by striking subsections (e), (f), and (g).

SEC. 10. TECHNICAL AMENDMENTS.

(a) CLERICAL AMENDMENT TO CHAPTER 10 OF TITLE 17, UNITED STATES CODE.—The item relating to section 1010 in the table of contents for chapter 10 of title 17, United States Code, is amended to read as follows:

''1010. Adjudication of certain disputes.''.

(b) CLERICAL AMENDMENT TO CHAPTER 9 OF TITLE 17, UNITED STATES CODE.—The item relating to section 903 in the table of contents for chapter 9 of title 17, United States Code, is amended to read as follows:

''903. Ownership, transfer, licensing, and recordation.''.

(c) CLERICAL AMENDMENT TO TABLE OF CHAPTERS.—The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

''6. Manufacturing Requirements and Importation ..... 601''.

SEC. 11. RETRANSMISSION CONSENT.

Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

''(A) with the express authority of the station;

''(B) pursuant to section 614, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section; or

''(C) pursuant to section 337, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

''(2) The provisions of this subsection shall not apply to—

''(A) retransmission of the signal of a noncommercial broadcasting station;

''(B) retransmission of the signal of a superstation by a satellite carrier to subscribers for private home viewing if the originating station was a superstation on January 1, 1998;

''(C) retransmission of the signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the household receiving the signal is located in an area in which such station

may not assert its rights not to have its signal duplicated under the Commission's network nonduplication regulations; or

''(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if such signal was obtained from a satellite carrier and the originating station was a superstation on January 1, 1998.'';

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

''(C) Within 45 days after the effective date of the Copyright Compulsory License Improvement Act, the Commission shall commence a rulemaking proceeding to revise the regulations governing the exercise by television broadcast stations of the right to grant retransmission consent under this subsection, and such other regulations as are necessary to administer the limitation contained in paragraph (2). Such regulations shall establish election time periods that correspond with those regulations adopted under subparagraph (B). The rulemaking shall be completed within 180 days after the effective date of the Copyright Compulsory License Improvement Act.''; and

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

''(7) For purposes of this subsection:

''(A) The term 'superstation' means a television broadcast station, other than a network station, licensed by the Commission that is secondarily transmitted by a satellite carrier.

''(B) The term 'satellite carrier' has the meaning given that term in section 119(d) of title 17, United States Code.''.

SEC. 12. MUST-CARRY FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

Title III of the Communications Act of 1934 is amended by inserting after section 336 the following new section:

''SEC. 337. CARRIAGE OF LOCAL TELEVISION SIGNALS BY SATELLITE CARRIERS.

''(a) CARRIAGE OBLIGATIONS.—Each satellite carrier providing direct to home service of a network station to subscribers located within the local market of such station shall offer to carry all television broadcast stations located within that local market, subject to section 325(b). Carriage of additional television broadcast stations within the local market shall be at the discretion of the satellite carrier, subject to section 325(b).

''(b) DUPLICATION NOT REQUIRED.—Notwithstanding subsection (a), a satellite carrier shall not be required to offer to carry the signal of any local television broadcast station that substantially duplicates the signal of another local television broadcast station which is secondarily transmitted by the satellite carrier, or to offer to carry the signals of more that one local television broadcast station affiliated with a particular broadcast network (as the term is defined by regulation).

''(c) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a satellite carrier under this section shall be carried on the satellite carrier channel number on which the local television broadcast station is broadcast over the air, or on the channel on which it was broadcast on January 1, 1985, or on the channel it was broadcast on January 1, 1998, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the satellite carrier. Any dispute regarding the positioning of local television broadcast stations shall be resolved by the Commission.

''(d) COMPENSATION FOR CARRIAGE.—A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of the requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the principal headend of the satellite carrier.

''(e) REMEDIES.—

''(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier is obligated to offer to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The satellite carrier shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning or other requirements of this section. A local television broadcast station that is denied carriage or channel positioning or repositioning in accordance with this section by a satellite carrier may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

''(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such satellite carrier and opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

''(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the satellite carrier has met its obligations under this section. If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the satellite carrier has fully met the requirements of this section, it shall dismiss the complaint.

''(f) REGULATIONS BY COMMISSION.—Within 180 days after the effective of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section.

''(g) DEFINITIONS.—As used in this section:

''(1) TELEVISION BROADCAST STATION.—The term 'television broadcast station' means a full-power television broadcast station, and does not include a low-power or translator television broadcast station.

''(2) LOCAL MARKET.—The term 'local market' means the designated market area in which a station is located and—

''(A) for a commercial television broadcast station located in any of the 150 largest designated market areas, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market;

''(B) for a commercial television broadcast station that is located in a designated market area that is not one of the 150 largest, the local market includes, in addition to all commercial television broadcast stations licensed to a community within the same designated market area, any station that is significantly viewed, as such term is defined in section 76.54 of the Commission's regulations (47 C.F.R. 76.54); and

''(C) for a noncommercial educational television broadcast station, the local market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

''(3) DESIGNATED MARKET AREA.—The term 'designated market area' means a designated market area, as determined by the Nielsen Media Research and published in the DMA Market and Demographic Report.''.

SEC. 13. NETWORK NONDUPLICATION; SYNDICATED EXCLUSIVITY AND SPORTS BLACKOUT.

(a) REGULATIONS.—

(1) IN GENERAL.—Within 45 days after the effective date of this Act, the Federal Communications Commission shall commence a rulemaking to establish regulations that apply network nonduplication protection, syndicated exclusivity protection, and sports blackout protection to the retransmission of broadcast signals by satellite carriers to subscribers for private home viewing. To the extent possible, such regulations shall, subject to paragraph (2), include the same level of protection accorded retransmissions of television broadcast signals by cable systems for network nonduplication (47 C.F.R. 76.92), syndicated exclusivity (47 C.F.R. 151), and sports blackout (47 C.F.R. 76.67).

(2) NETWORK NONDUPLICATION.—The network nonduplication regulations required under paragraph (1) shall allow a television broadcast station in any local market to assert nonduplication rights—

(A) against a satellite carrier throughout such local market if that satellite carrier retransmits to subscribers for private home viewing in such local market the signal of another television broadcast station located within such local market; or

(B) against all satellite carriers within the zone in which the television broadcast station may be received over-the-air, using conventional consumer television receiving equipment, as determined under regulations prescribed by the Federal Communications Commission, but such zone shall not extend beyond such local market of such station.

(3) LOCAL MARKET DEFINED.—The term ''local market'' has the meaning provided in section 337(g) of the Communications Act of 1934, as added by section 12 of this Act.

(b) DEFERRED APPLICABILITY OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.—Notwithstanding the amendments to section 119 of title 17, United States Code, made by this Act, until the regulations regarding network nonduplication protection are established under subsection (a), the statutory license under subsection (a) of such section 119 for secondary transmissions of primary transmissions of programming contained in a primary transmission made by a network station (as defined in section 119(d) of title 17, United States Code, as in effect on the day before the effective date of this Act) shall be limited to secondary transmissions to persons who reside in unserved households (as defined in section 119(d) of title 17, United States Code, as in effect on the day before the effective date of this Act).

SEC. 14. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on January 1, 1999.

SECTION BY SECTION ANALYSIS OF THE COPYRIGHT COMPULSORY LICENSE IMPROVEMENT ACT

SECTION 1

The title of the bill is the ''Copyright Compulsory License Improvement Act.''

SECTION 2

Section 2 of the bill amends the section 119 satellite carrier compulsory license of the

Copyright Act to create a statutory licensing scheme that permits satellite carriers to provide their subscribers with local and distant television broadcast signals, as well as the national satellite feed of the Public Broadcasting Service. Satellite carriers may retransmit any television broadcast signals to subscribers for private home viewing, provided that such retransmissions are in compliance with the rules and regulations of the Federal Communications Commission. Such compliance would include syndicated exclusivity, sports blackout and network nonduplication protection for broadcasters, as required by section 13 of the bill.

Section 2 requires satellite carriers to provide initial and updated lists to local television stations identifying subscribers in the local television station's area who receive satellite service and the names of the network stations provided to those subscribers. This will allow television stations to preserve their network nonduplication rights provided in section 13 of the bill.

Section 2 prohibits satellite carriers from willfully altering the programming contained on television broadcast signals and the PBS national satellite feed that the carriers retransmit. In addition, satellite carriers are prohibited from unlawfully discriminating against a distributor of satellite retransmitted broadcast programming, and any such unlawful discrimination constitutes an act of copyright infringement subject to the penalties of chapter 5 of the Copyright Act. It is also copyright infringement for a satellite carrier to fail to submit a statement of account and royalty fee necessary to obtain the satellite compulsory license.

SECTION 3

Section 3 of the bill creates the terms and conditions of the satellite compulsory license. Carriers must submit a statement of account and royalty fee to the Copyright Office on a semiannual basis for subsequent distribution to copyright owners. The royalty fee for retransmission of distant television broadcast stations, and the PBS national feed, is the royalty fee in effect on date of enactment of the bill for retransmission of distant television broadcast signals. There is no royalty fee for television broadcast signals that are retransmitted to subscribers who reside within the local markets of such signals.

The remainder of section 3 continues the provisions of the existing law by prescribing how the royalty fees are collected and maintained for distribution, and how copyright owners of works contained on retransmitted television broadcast signals and the PBS national feed may claim royalties.

SECTION 4

Section 4 of the bill contains definitions of terms used in the section 119 compulsory license. Most of the definitions in the existing law are carried forward. New provisions include a definition of ''designated market area'' and ''local market'' for determining royalty-free local retransmissions of broadcast signals, and a definition of the new PBS national feed.

SECTION 5

Section 5 of the bill carries forward the provision of existing law maintaining exclusivity of the satellite license with the cable compulsory license of the Copyright Act, found at 16 U.S.C. 111. That is, a satellite carrier making secondary transmissions of television broadcast signals, and the PBS national feed, for private home viewing may only do so under the terms of the section 119 license, and may not invoke the terms of the section 111 cable license.

SECTION 6

Section 6 of the bill contains a conforming amendment amending the table of contents of chapter 1 of the Copyright Act.

SECTION 7

Section 7 of the bill completely revises chapter 8 of the Copyright Act, replacing the current Copyright Arbitration Royalty Panels with a Copyright Royalty Adjudication Board.

New section 801 of the Copyright Act establishes the Copyright Royalty Adjudication Board within the U.S. Copyright Office.

New section 802 of the Copyright Act establishes the membership and qualifications of the Board. New section 802(a) establishes that the Board should be comprised of one full-time Chief Administrative Copyright Judge and at least two part-time Administrative Copyright Judges. It is left up to the discretion of the Librarian of Congress, upon the recommendation of the Register of Copyrights, to determine how many other part-time Administrative Copyright Judges the Board shall have. The determination should be based on how many judges the Board will need to conduct its business in a timely manner.

New section 802(b) requires that the Chief Administrative Copyright Judge be an attorney with ten or more years of legal practice and have experience either in administrative hearings or court trials, and a demonstrated knowledge of copyright law. Other Administrative Copyright Judges must possess expertise in the business and economics of industries affected by the actions the Board takes.

New section 802(c) provides that the term of the Board members shall be five years on a staggered basis so that no more than one term is due to expire in any one year. To achieve this, the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall appoint some of the initial Board members to shorter than five year terms.

New section 802(d) provides compensation for the members of the Board at the Senior Level in accordance with the provisions of 5 U.S.C. § 5376.

New Section 803 of the Copyright Act provides for selection of the members of the Board. New section 803(a) provides that the Librarian of Congress, upon the recommendation of the Register of Copyrights, selects the members of the Board. The Librarian may only select those persons found qualified under section 802(b) and found to meet the financial conflict of interest standards adopted under section 805(a). The Librarian may reselect, without limit, members of the Board to additional terms. Section 803(b) provides that actions taken by the Board during those times will be valid, notwithstanding any temporary vacancy.

New section 804 of the Copyright Act provides for the independence of the Board. New section 804(a) provides that the Board shall have decisional independence on the substantive matters before it. Board members are neither to receive performance appraisals nor are they to be assigned duties inconsistent with their duties and responsibilities as members of the Board.

New section 805 of the Copyright Act provides for removal and sanction of the members of the Board. New section 805(a) provides that the Register of Copyrights shall adopt regulations regarding the standards of conduct that members of the Board are expected to maintain. The Register is specifically instructed to adopt regulations concerning financial conflict of interest and *ex parte* communications.

New section 805(b) provides that the Librarian, upon the recommendation of the Register of Copyrights, may remove or sanction a member of the Board, upon notice and opportunity for hearing, for violation of any of the standards of conduct adopted under section 804(a). In addition, the Librarian may also remove or sanction for misconduct, neglect of duty, or any disqualifying physical or mental disability.

New section 806 of the Copyright Act provides for the functions of the Board. New section 806(a) enumerates the rate setting, royalty distribution, and rulemaking functions that are delegated to the Board. The Board determines the rates for: cable retransmission of broadcast signals, the making and distributing of phonorecords by means other than digital phonorecord delivery, satellite carrier retransmission of broadcast signals, and the importing and distributing or manufacturing and distributing of digital audio recording devices.

The Board determines the rate and terms for: the public performance of a sound recording by means of a digital audio transmission; the making and distributing of phonorecords by means of a digital phonorecord delivery; the public performance of music on jukeboxes; the use of music and visual works by public broadcasting entities; and the transmission to the public by a satellite carrier of a primary transmission of a public telecommunications signal.

The Board accepts or rejects claims filed by copyright owners to royalties deposited with the Copyright Office in the cable fund, the satellite carrier fund, and the digital audio recording fund. Then, for those claims that the Board accepts, the Board determines how much each claimant should receive from those funds.

The Board has jurisdiction to decide, when petitioned, if a particular digital audio recording device or digital audio recording interface device is subject to the provisions of chapter 10 for paying a royalty on the distribution of such devices.

The Board also has certain rulemaking authority, some of which is upon the approval of the Register of Copyrights, concerning the filing of claims, the notice and record-keeping requirements pertaining to some of the compulsory licenses, and the Board's own procedures.

New section 806(b) provides that the creation of the Copyright Royalty Adjudication Board does not diminish the authority of the Register of Copyrights to establish regulations interpreting the provisions and terms of the Copyright Act.

New section 807 of the Copyright Act sets out the factors for determining the royalty fees for the section 114, 115, 116, 118 and 119 compulsory licenses of the Copyright Act. The section also lists the factors that the Board shall take into account when determining or adjusting royalty rates.

New section 808 of the Copyright Act provides for the institution of royalty distribution and rate adjustment proceedings under the compulsory licenses. New section 808 instructs the Board when proceedings shall occur, and whether the proceedings require a petition to initiate them or whether they commence automatically.

New section 809 of the Copyright Act describes the conduct of royalty distribution and rate adjustment proceedings. New section 809(a) provides that the Board shall conduct its proceedings in accordance with the Administrative Procedure Act. New section 809(b) provides that the Board shall adopt its own rules of procedures upon the approval of the Register of Copyrights. New section 809(c) authorizes the Copyright Office, in its discretion, to file formal pleadings with the Board on any matter pending before the Board. All Copyright Office pleadings shall be formally filed and served on all the parties to the proceeding. The Board may accept or reject the advice of the Copyright Office.

New section 809(d) provides that all actions of the Board are by majority rule. New section 809(e) allows the Board the discretion to determine whether, in a particular proceeding, one or three members should preside. New section 809(f) permits all parties whose claims are accepted or who have an interest in the royalty rate to be set to participate in the proceeding and submit relevant proposals and evidence.

New section 809(g) provides that, except as provided in sections 118 and 119(c), the time limit for the issuance of initial decisions in proceedings with one presiding member shall be six months from the declaration of the controversy, and the time limit for initial decisions in proceedings with three presiding members shall be one year from the declaration on the controversy.

New section 809(h) provides that the initial decision shall contain the same level of reasoned decision-making that is required under the Administrative Procedure Act, and take into account the precedent of the decisions of the Copyright Royalty Tribunal, the copyright arbitration royalty/panels and the decisions of the Librarian of Congress made in respect to the copyright arbitration royalty panels.

New section 809(i) provides the parties to the proceeding and the Register of Copyrights an opportunity to petition the entire Board to reconsider any initial decision issued by its presiding member or members. If there are no petitions for reconsideration, the initial decision becomes the final decision automatically. If there are petitions for reconsideration, the entire Board considers the petition, and issues a final decision. The final decision of the entire Board constitutes final agency action. Section 809(i) provides that the time limits for filing petitions for reconsideration, and for the entire Board to issue the final decision shall be determined by regulation.

New section 810 of the Copyright Act provides for judicial review of Board determinations. New section 810(a) provides that when the initial decision becomes the final decision, the Board shall have one week to publish the final decision in the Federal Register. Parties aggrieved by the decision of the Board shall have 30 days from the appearance of the final decision in the Federal Register to appeal the decision to the United States Circuit Court of Appeals for the Federal Circuit. In that case, the Board shall be the defending party, and the Chairperson of the Board shall refer the conduct of the Board's defense to the Department of Justice. Notwithstanding the pendency of any appeal, persons who would pay the royalty rates adjusted by the Board's decision are still obligated to pay the adjusted rate and, if applicable, to file a statement of account with the Copyright Office.

New section 810(b) provides that judicial review of the Board's final decision is in accordance with the Administrative Procedure Act.

New section 811 delineates various administrative matters related to administration of the compulsory licenses. New section 811(a) instructs the Librarian of Congress, upon the recommendation of the Register of Congress, to provide the Board with the necessary administrative services and personnel support it needs. Personnel support may include the services of experts such as a statistician or an economist, when a particular proceeding requires such expertise.

New section 811(b) delegates to the Board the authority to publish in the Federal Register notices of the Board's actions in its proceedings, and such regulations as the Board has been delegated the exclusive right to adopt. New section 811(c) authorizes the Librarian of Congress to assess fees for the reasonable costs incurred in a rate making proceeding from those parties interested in participating in the proceeding. The section further authorizes the Register of Copyrights to deduct from the ratemaking fees and from the royalty fees deposited with the Copyright Office the reasonable costs incurred by the Copyright Office and the Board.

New section 811(d) provides that notwithstanding any ceiling imposed on the full-time equivalent positions in the Library of Congress, the members of the Board or employees in support of the Board do not count in the calculation of that ceiling.

New section 811(e) provides that when the Register of Copyright submits to Congress the budget of the Copyright Office, the Register shall identify the portion intended for the Board with a statement assessing the Board's budgetary needs.

Section 811(f) provides that the Board shall prepare its own annual report and it shall be included in the Copyright Office's annual report.

Section 812 provides a rule of construction continuing the general power of the Register of Copyrights to establish regulations governing the Copyright Act, and makes technical and conforming amendments, including providing for appeals from decisions of the Board to the Court of Appeals for the Federal Circuit.

SECTION 8

Section 8 of the bill provides transitional rules for the establishment of the Board. For example, prior to the constituting of the Board, the Register of Copyrights shall adopt the Board's rules of procedure, but that when the Board is constituted, it may adopt supplemental or superseding regulations, upon the approval of the Register of Copyrights.

The section also provides that copyright arbitration royalty panels that have already been convened at the time of the passage of this act may continue and complete their proceeding, unless the Register of Copyrights, finds for good cause, that the proceeding should be discontinued. For those proceedings that continue, the report of the copyright arbitration royalty panels shall be submitted to the Librarian of Congress, or the Librarian may, in his discretion, direct the panel to submit the report to the Board. If there are any appeals pending of a decision of a copyright arbitration royalty panel that are eventually remanded by the Court, the remanded case shall go to the Board, not to a reconvened copyright arbitration royalty panel.

SECTION 9

Section 9 of the bill contains conforming amendments to substitute the Copyright Royalty Adjudication Board for the copyright arbitration royalty panels and the Librarian of Congress wherever appropriate.

SECTION 10

Section 10 makes technical and conforming amendments.

SECTION 11

Section 11 amends the section 325 of the Communications Act to provide that satellite carriers must in certain circumstances obtain retransmission permission from a broadcaster before they can retransmit the signal of a network broadcast station. Like the regime applicable to the cable industry, network broadcasters are afforded the option of either granting retransmission consent, or they may elect must-carry status as provided in section 12 of the bill. All satellite carriers that provide local service of television network stations must obtain either retransmission consent of the local broadcasters, or carry their signals subject to the must-carry provisions.

Section 11 does exempt carriage of certain broadcast stations from the retransmission consent requirement. Retransmission consent does not apply to noncommercial broadcasting stations, and superstations that existed as superstations on January 1, 1998. Also exempt from the retransmission consent requirement is retransmission of a network station to a household that is not subject to the network nonduplication protection provided in section 13 of the bill. The purpose of this provision is to allow subscribers who reside in the designated market area of a network affiliate, but do not live in an area where the relevant local stations can request network nonduplication (assuring that a subscriber does not or cannot otherwise receive the signal of the local affiliate) to obtain a distant signal of the same network from their satellite carrier.

Section 11 also directs the Federal Communications Commission to, within 45 days of enactment of the bill, commence a rulemaking proceeding to adopt regulations governing the exercise of retransmission rights for satellite retransmissions for private home viewing.

SECTION 12

Section 12 of the bill creates must-carry obligations for satellite carriers retransmitting television broadcast signals. The provisions are similar to those applicable to the cable industry. Any satellite carrier that retransmits a network television broadcast signal to subscribers residing within the local market of that signal, must offer to carry all the television stations in the local market to subscribers residing in the local market. This approach of ''carry one, then carry all'' is subject to the retransmission consent election of section 11 of the bill. Thus, a satellite carrier does not have to carry a local television broadcast station if the station elects retransmission consent rather than must-carry. The ''local market'' of a broadcast station is defined as the station's Designated Market Area, as determined by Nielsen Media Research.

Section 12 tracks the cable must-carry provisions of the 1992 Cable Act by relieving satellite carriers from the burden of having to carry more than one affiliate of the same network if both of the affiliates are located in the same local market. Local broadcasters are also afforded channel positioning rights, and are required to provide a good quality signal to the satellite carrier's principal headend in order to assert must-carry rights. Satellite carriers are forbidden from obtaining compensation from local broadcasters in exchange for carriage. Section 12 also provides a means for broadcasters to seek redress from the Federal Communications Commission for violations of the must-carry obligations.

SECTION 13

Section 13 of the bill directs the Federal Communications Commission, within 45 days of enactment of the bill, to commence rulemaking proceedings to impose network nonduplication protection, syndicated exclusivity and sports blackout protection on satellite retransmissions of television broadcast signals for private home viewing. The regulations to be adopted are to be similar to those currently in force for retransmissions of television broadcast signals by cable systems, to the extent possible, recognizing that there are technological and other differences between cable and satellite.

In adopting network nonduplication protection rules, the Commission is directed to adopt rules that permit satellite carriers to provide distant network signals to subscribers who reside within the designated market area of a network station affiliated with the same network but cannot receive an over-the-air signal of the local affiliate, and further do not receive the local signal from a cable or satellite service. The purpose of this provision is to prevent local affiliates from asserting network nonduplication protection

against subscribers who legitimately cannot or do not receive the local network affiliate signal, but allow stations to protect their network exclusivity if they do. Thus, if the satellite carrier serving a subscriber provides him or her with the local affiliate for that designated market area, the satellite carrier may not also provide such subscriber with distant network signals affiliated with the same network. Additionally, if a subscriber can receive the local affiliate's signal over the air, the satellite carrier cannot provide distant network signals affiliated with the same network. This replaces the current ''white area'' system, based on the Grade-B contour of a station enforceable in court, with rules prescribed and overseen by the FCC, once the FCC establishes rules.

SECTION 14

This section provides that the bill shall become effective on January 1, 1999.

Mr. LEAHY. Mr. President, today I am introducing a bill with Chairman HATCH concerning satellite television that I hope will prove to be good news for consumers throughout the nation and in Vermont.

I greatly appreciate this opportunity to work with Chairman HATCH and Senator KOHL.

We intend for this bill to lead to head-to-head competition between cable and satellite TV providers. This should open more choices and services to Vermonters, at lower prices. The bill also will allow householders who want to subscribe to this new satellite TV service to receive all local Vermont TV stations by satellite. The goal is to offer Vermonters more choices, more TV selections—and especially of local programming—but at lower rates.

In areas of the country where there is this full competition with cable providers, rates to customers are considerably lower. I helped foster the home satellite industry with passage of the Satellite Home Viewer Act in 1988 and the extension of that act in 1994. Now it is time for the home satellite industry to offer a competitive alternative to cable. It is my hope that we can foster that competition and do so in a way that preserves the local perspective and service provided by the local network affiliate system.

This bill is intended to permit satellite TV providers to offer the networks through their local TV channels to viewers throughout Vermont and a full complement of superstations and movies. This means that local Vermont TV stations will be available over satellite to many areas of Vermont currently unserved by satellite or by cable.

I have received scores of letters from Vermonters who have complained about the current situation. Under current law, it is illegal for satellite TV providers to offer local TV channels over a satellite dish when you live in a area where you are likely to get a clear TV signal with a regular rooftop antenna.

This means that thousands of Vermonters living in or near Burlington cannot receive local signals over their satellite dishes. I understand their frustration. At our farm in Middlesex, we receive signals from one and a half stations.

This bill is intended to adjust the statutory copyright licenses in order to allow satellite carriers to offer local TV signals to viewers no matter where they live in Vermont. To take advantage of this opportunity, satellite carriers will in general have to follow the rules that cable providers have to follow. This will mean that they must carry all full-power local Vermont TV stations in their TV offering.

Today, Vermonters receive satellite signals with programming from stations in other states. In other words, they would get a CBS station from another state but not WCAX, the Burlington CBS affiliate. I hope that our bill will correct this upside-down situation and make network programming available to all, while preserving local programming and respecting the affiliate system.

By allowing satellite providers to offer a larger variety of programming, including local stations, the satellite industry would be able to compete with cable, and the cable industry will be competing with satellite carriers. Cable will continue to be a highly effective competitor with its ability to offer extremely high-speed Internet connections to homes and businesses.

A major reason I voted against the Telecommunications Act of 1996—and I was only one of five who voted against that bill—was my fear that cable, satellite and telephone rates would go up significantly in rural states. I wish I had been wrong, but the rates, in fact, have been climbing since then. When fully implemented this bill should reverse that trend as has been the case in cities where there were competitors to cable.

The second major improvement in this bill is that satellite carriers that offer local Vermont channels in their mix of programming will be able to reach Vermonters throughout our state. The system will be based on regions called Designated Market Areas, or DMAs, established through marketing surveys done by the Nielsen Corporation ratings organization.

Vermont has one large DMA covering most of the state and part of the Adirondacks in New York—the Burlington-Plattsburg DMA—and parts of two smaller ones in Bennington County (the Albany-Schenectady-Troy DMA) and in Windham County (the Boston DMA).

Over time those two counties could be included in the Burlington-Plattsburg DMA depending on marketing, advertising and other demographic factors that Nielsen Corporation examines.

This new satellite system is not yet available. Companies are preparing to launch spot-beam satellites to take advantage of this bill. I encourage them to do so. Using current technology, signals would be provided by spot-beam satellites using some 150 regional uplink sites throughout that nation to beam local signals up to two satellites. Those satellites would use 60 spot beams to send those local signals, received from the regional uplinks, back to satellite dish owners. High-definition TV would be offered under this system at a later date.

Under this bill, and using this spot-beam technology, home owners with satellite dishes in downtown Burlington, and in almost every county in Vermont, would receive all the full-power TV stations in the Burlington-Plattsburg DMA, including Vermont public television. Therefore, subscribers to the new satellite technology would be able to receive WPTZ, WCAX, WNNE, Vermont public television, and other full-power broadcast stations, throughout most of Vermont. Bennington residents would receive the stations in the Schenectady-Albany-Troy DMA. Windham County residents would receive full power stations in the Boston DMA.

As I mentioned earlier, Bennington and Windham Counties could be included in the Burlington-Plattsburg DMA at a later date as the demographics of the region evolve, or as technology changes.

Under this bill, Vermonters will have more choices. Those who want this new satellite service will be allowed to sign up in the next couple of years or keep their present satellite service.

Those who want to stick with cable, or with regular broadcast TV, are able to continue their viewing in those ways. Since technology advances so quickly, other systems could be developed before this bill is fully implemented that would provide other service but using different technologies.

I share the frustration of so many that laws and regulations in this case have tended to frustrate consumer choices and stifle technology. That is not the way it should be. It is time to update our satellite viewing laws to encourage full and vigorous competition with the cable industry and expand viewer options.

Mr. KOHL. Thank you, Mr. President. Along with my colleagues, Senators HATCH and LEAHY, I rise in support of the Copyright Compulsory License Improvement Act of 1997. This proposal, although clearly not a final product, is an important step forward in creating true competition between satellite and cable television. And that is an important step forward for consumers.

Mr. President, this bill generally takes the right approach. It gives satellite carriers the ability to provide the one thing that consumers want most: local television broadcast signals. In return, the satellite carriers must comply with FCC regulations governing syndicated exclusivity, sports blackout protection, and network nonduplication. The measure also creates a retransmission consent process, and establishes certain ''must carry'' obligations on satellite carriers that rebroadcast local signals. As a

general premise, it seems only fair that the benefits of carrying local signals should be balanced with reasonable regulatory burdens that are consistent with cable's obligations. But we should also look at reducing at least some of the ''must carry'' burdens—for example, why should any provider be required to carry the Home Shopping Network, which is predominantly commercial?

So what does all this mean for businesses and consumers? Hopefully, it will create more availability and affordability in television programs. And it will help to preserve local television stations, who provide all of us with vital information like news, weather, and special events—especially sports. We ought to get moving on this sooner, rather than later. It would be a mistake to wait until just before the license expires in 1999.

This measure replaces the Copyright Arbitration Royalty Panels with a Copyright Royalty Adjudication Board. In addition to its clever new acronym (''CRAB''), the Board in the future will hopefully find a better way to create parity in the fees that cable and satellite providers pay in copyright royalties. This time around, however, it would be wise to lower legislatively the recently proposed 27 cent rate.

In any event, we should view the Copyright Compulsory License Improvement Act as a point of departure rather than a final product. I am hopeful we can work with the Commerce Committee, which clearly has an important role to play in many of these matters. This measure is a significant step in promoting competition, and Senators HATCH and LEAHY deserve enormous credit for creating a constructive approach, which can only benefit consumers nationwide. I urge my colleagues to join me in supporting it.

SENATE CONCURRENT RESOLUTION 80—CONCERNING SURVIVOR BENEFITS FOR WIDOWS AND WIDOWERS OF RAILROAD RETIREES

Ms. MOSELEY-BRAUN submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 80

Whereas for years, many in the railroad industry have argued that annuities paid to widows and widowers under the Railroad Retirement Act of 1974 are inadequate;

Whereas during the lifetime of the employee and the spouse, the employee receives a full annuity and so does the spouse;

Whereas after the employee's death, however, only a widow's or widower's annuity is payable, which under current law is less than that widow or widower received as a spouse in the month before the employee's death;

Whereas this widow's or widower's annuity is often found inadequate and leaves the survivor with less than the amount of income needed to meet ordinary and necessary living expenses; and

Whereas no outside contributions from the American taxpayer are needed, and any changes will be paid for from within the railroad industry itself: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress recognizes the concern of many in the railroad industry that the widow's and widower's annuity under the current system is inadequate and often leaves the survivor with less than the amount of income needed to meet ordinary and necessary living expenses;

(2) Congress also recognizes that a process of dialogue must take place among all parties of the railroad community including rail labor, management, and retiree organizations before railroad annuity legislation can be enacted; and

(3) because of the self-sufficient and unique nature of the Railroad Retirement System, Congress urges and exhorts all parties of the railroad community, including rail labor, management, and retiree organizations to find a suitable way to fund an amendment that would improve the survivor benefits component to the Railroad Retirement Act of 1974.

Ms. MOSELEY-BRAUN. Mr. President, today I am submitting a concurrent resolution calling on railroad employers, employees, and retiree organizations to work together to provide for a secure retirement for widows and widowers of railroad employees.

Currently, when a railroad employee retires, that retiree and his or her spouse receive 145 percent of the retiree's full retirement annuity. When that retiree dies, however, his or her spouse loses 100 percent of the retiree's annuity, leaving only a 45 percent survivor's benefit. The result can be that widows and widowers of railroad employees no longer have sufficient income on which to live.

In Illinois alone, there are over 50,000 railroad retirees. Over three-quarters of these men and women are married. If nothing is done to correct these retirement inequities, the spouses of these retirees risk spending their final years in poverty.

Many in the railroad industry acknowledge that these survivor benefits are inadequate. While railroad employees and employers pay substantially higher employment taxes than companies covered by Social Security, the higher taxes are not reflected in the level of benefits to which widows and widowers of retirees are entitled.

This resolution calls on the railroad industry to forge a consensus to solve this problem. The resolution urges that rail labor, management, and retiree organizations open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity.

I introduced a provision to allow for the payment of a survivor annuity to divorced widows and widowers of railroad retirees as part of the Women's Pension Equity Act of 1996. Under current law, a divorced spouse can receive certain retiree benefits but these end when the retiree dies. This loss of benefits can be devastating for divorced spouses who have been supporting themselves in their old age.

I am working to correct this illogical and unjust provision in the law, but without increasing survivor benefits, all widows and widowers, whether married or divorced, are at risk. Having survivor benefits today is not a guarantee of a secure retirement.

This resolution requires no expenditures of taxpayer funds, but merely expresses the intent of Congress that the issue of inadequate retirement income for widows and widowers of railroad retirees be resolved. This concurrent resolution was submitted in the House of Representatives by Congressman Jack Quinn, as House Concurrent Resolution 52.

I urge my colleagues to join me in supporting this concurrent resolution to improve retirement security for tens of thousands of widows and widowers across the country.

SENATE RESOLUTION—192—EXPRESSING THE SENSE OF THE SENATE TO CHANGE THE CULTURE OF ALCOHOL CONSUMPTION ON COLLEGE CAMPUSES

Mr. BIDEN submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 192

Whereas many college presidents rank alcohol abuse as the number one problem on campus;

Whereas alcohol is a factor in the 3 leading causes of death for individuals aged 15 through 24 (accidents, homicides, and suicides);

Whereas more than any other group, college students tend to consume large numbers of drinks in rapid succession with the intention of becoming drunk;

Whereas 84 percent of college students report drinking alcohol during the school year, with 44 percent of all college students qualifying as binge drinkers and 19 percent of all college students qualifying as frequent binge drinkers;

Whereas alcohol is involved in a large percentage of all campus rapes, violent crimes, student suicides, and fraternity hazing accidents;

Whereas heavy alcohol consumption on college campuses can result in drunk driving crashes, hospitalization for alcohol overdoses, trouble with police, injury, missed classes, and academic failure;

Whereas the second-hand effects of student alcohol consumption range from assault, property damage, and unwanted sexual advances, to interruptions in study or sleep, or having to ''babysit'' another student who drank too much; and

Whereas campus binge drinking can also lead to the death of our Nation's young and promising students: Now, therefore, be it

Resolved,

SECTION 1. SHORT TITLE.

This resolution may be cited as ''The Collegiate Initiative To Reduce Binge Drinking Resolution''.

SEC. 2. SENSE OF THE SENATE.

It is the sense of the Senate that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following: