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The House met at 10 a.m.

NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 10, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on November 30, 1999, in order to permit Members to revise and extend their remarks.

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If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

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WILLIAM M. THOMAS, *Chairman.*

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MICHAEL F. DiMARIO, *Public Printer.*

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Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH) for 4 minutes.

WHAT IS THE WTO?

Mr. KUCINICH. Mr. Speaker, with all the talk about the meeting of the WTO in Seattle, it is worth answering the question, what is the WTO? The World Trade Organization, the Uruguay Round of the GATT, General Agreement on Tariffs and Trade, is a broad-ranging set of international trade rules that, number one, imposes obligations on foreign countries that are beneficial to U.S. multinational companies and, number two, it imposes obligations on the Federal and State governments that place tight limitations on Congress and the State legislatures that are beneficial to foreign multinational companies.

The WTO makes the world the oyster of large multinational businesses, because the WTO takes away the inability of national governments to set the laws of their countries. National governments, including the United States, lose the ability to pass laws affecting the import of products that are dangerous or that are made where there are no worker protections, child labor prohibitions, minimum wage standards or where workers are deprived of the right to organize into unions and bargain collectively.

Even if the import of those products would put U.S. workers out of work or would endanger consumers or the environment, the WTO says no.

At the current time, there is a WTO panel hearing arguments against France's ban on asbestos, a proven carcinogen in humans and a substantial workplace danger.

According to the Congressional Research Service, legislation passed in the U.S. Congress to ban imports of products made with child labor, quote, would be inconsistent with GATT articles, unquote. In other words, the WTO would not permit Congress to ban products made with child labor.

So here is the imbalance: The WTO permits measures that make it easier for large companies to locate anywhere in the world but the WTO forbids a country from banning a product made with child labor.

What would happen if the U.S. passed a law that banned the import of products made with child labor? Any one of the 131 member countries could seek a tribunal in Geneva to overturn the U.S. law. Companies that profit from products made from child labor would be expected to lobby countries to bring such a case. It is possible that companies would be able to bring such a case themselves, without persuading a country government to do so, if the WTO is expanded some more. If a WTO panel of trade bureaucrats ruled that any child labor ban violated the WTO, the U.S. would have to repeal the law or pay damages.

According to the Congressional Research Service, that is just what the WTO tribunal would rule.

So when the World Trade agreement was negotiated, we gave away the United States' greatest negotiating leverage, access to the U.S. market, to improve the rights and living standards of workers in the U.S. and around the world. The U.S. has basically unilaterally ceded this.

In the next few weeks, trade ministers from many of the world's countries will be meeting in Seattle to discuss how to expand the WTO. The U.S. is sending many negotiators, but will they be bargaining for what we need? What we need, what the working people in the United States and overseas need, is to renegotiate the WTO before any expansion occurs. We need to place limitations on the WTO. We need to explicitly enable the United States and other countries to prohibit import of products made with child and forced labor.

We need to be able to use the leverage of access to the U.S. market and other markets to guarantee the rights of workers to organize into unions and bargain collectively; to be protected by workplace safety and right-to-know standards that are minimally equivalent to current U.S. standards; and to benefit from legal minimum wage levels.

We need the WTO to be limited to improve conditions for workers in the U.S. and around the world. American workers would benefit. They would have less reason to be pressured into abandoning efforts to improve wages and conditions by employer threats to move plants and equipment to the Third World.

SELLING ABORTED BABY PARTS, WHAT HAS THE UNITED STATES COME TO?

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 19, 1999, the gentleman from Pennsylvania (Mr. PITTS) is recognized during morning hour debates for 2 minutes.

Mr. PITTS. Mr. Speaker, I rise today in support of House Resolution 350, a resolution which addresses the horrible practice developing in America of trafficking in baby body parts for monetary reimbursement. Abortion clinics are selling dead, unborn babies, or parts of them, to middlemen. These middlemen, in turn, are selling them to researchers.

Mr. Speaker, just look at this blowup of this price list taken from this chilling magazine article from someone in this awful business. A liver, $150, but it can be gotten for $125 if it is from a younger baby, or one can get a 30 percent discount if it is significantly fragmented; a spleen, $75; pancreas, $100; a thymus, $100.

Look at this, a brain, $999. Notice they even use marketing techniques in this gruesome business, selling it for $1 less than a thousand dollars to make it, I guess, a more attractive purchase.

Again, if it is fragmented, what a terrible way to describe a baby's injured brain from abortion, one can get a 30 percent discount; almost like step right up, ladies and gentlemen. A baby's ear, $75; eyes, $75 for a pair, $40 for one; skin, $100; the spinal cord, $325.

Mr. Speaker, I wish this price list were a cruel Halloween hoax, but it is not. It is a price list for human body parts from aborted babies, in America. This is not Nazi, Germany.

Mr. Speaker, I urge my colleagues to support this resolution calling for oversight hearings.

THE WTO NEEDS A MAJOR OVERHAUL, AND THE UNITED STATES HAS AN OPPORTUNITY TO DO IT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 4 minutes.

Mr. DEFAZIO. Mr. Speaker, the gentleman from Ohio (Mr. KUCINICH), who preceded me, talked a little bit about the upcoming meeting of the World Trade Organization, and I would like to follow up on that.

It was Renato Ruggiero, the former director general of the World Trade Organization, who said, and I quote, we are writing the Constitution of a new world government, end quote.

Well, they left out a few things when they wrote that new constitution. They left out consumer rights and protections. They left out labor rights. They left out environmental rights and protections.

The United States has a tremendous opportunity, in hosting the beginning of the next round of negotiations at the World Trade Organization, to initiate a major overhaul of this horribly flawed agreement and drag it kicking and screaming into at least the late 20th Century.

Labor rights, well there seems to be agreement on labor rights. The President has admitted that perhaps the nonbinding, face-saving, political butt-covering side agreements on labor and the environment, which were not binding, which helped push NAFTA through this organization here, the House of Representatives, gave enough people political cover, will not be enough in the future for trade agreements and, if called, he and the vice president, for labor agreements to be core labor protections, to be core to any future

agreement, the only problem is, their employee, the special trade representative, Charlene Barshefsky, does not seem to share their views.

When pressed in a press conference last week to expand upon what is the United States talking about here, they cannot be serious about putting labor protections into an international trade agreement, by God, then what would capital do? How could it run around the world looking for the most exploited sources of labor?

She said, quote, this is not a negotiating group. It is an analytic working group designed to draw upon the expertise of other multilateral institutions in order to answer a series of analytic points.

Now, that does not sound an awful lot like labor protections. It does not sound like it will get us to the point made by the previous gentleman from Ohio (Mr. KUCINICH), stopping trafficking in goods produced by forced child labor around the world. No, that is a little too far for the World Trade Organization, and if Ms. Barshefsky has her way, it will be too far for the United States of America to go. That is pathetic.

She goes on to say, the issue of sanctions is nowhere in this proposal and it is certainly not on the table, and then she goes on in another much longer quote I do not have time to give, to say that this analytical look at labor protections will lead everybody to the conclusion that the best way to bring up labor standards around the world is not to have any; sort of like the theory of the Republicans here in Congress. If we did not have a minimum wage the market would set one and it would be good for everybody.

Well, maybe not the people who earn the minimum wage or just above it, but it would be good for the employers.

The same thing with the World Trade Organization and Carlene Barshefsky. They want to say the market will bring about in the future some sort of labor protections without these horrible dictates.

In fact, they are undermining our own laws here in the United States with the World Trade Organization, a little secretive body of 3 people who are exempt from conflict of interest, exempt from public disclosure, make binding decisions on trade disputes.

The U.S. has lost a number of trade disputes on environmental issues over the last few years, but they have won one big one.

We are going to force the Europeans to take hormone-laced beef. By God, that is a big victory for the U.S. and we should have more of this. We do not want to reform this organization. We do not want transparency and doing away with conflict of interest rules. We do not want any system of juris prudence the American people can understand. We do not want to allow environmental groups or labor groups to intervene and mess up the decision-making process of the World Trade Organization.

We have a tremendous opportunity as the United States of America to lead, and maybe we have to get rid of Ms. Barshefsky to do that.

QUINCY LIBRARY GROUP AND FOREST HEALTH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from California (Mr. HERGER) is recognized during morning hour debates for 5 minutes.

Mr. HERGER. Mr. Speaker, we have a forest health crisis in this country and the Clinton-Gore administration's current do-nothing policies are utterly failing to address it. A government report released in April states that approximately 39 million acres of our western national forests are at extremely high risk of catastrophic fire.

Alarmingly, this same report indicates that the Forest Service has failed to advance a cohesive strategy to treat this 39 million acres at risk, despite the fact that the window of opportunity for taking effective management action is only about 10 to 25 years before catastrophic wild fires become widespread.

Last year, Congress passed historic legislation that was intended to provide the Forest Service a tool with which to proactively address and combat this forest health crisis.

The bipartisan Herger-Feinstein Quincy Library Group Forest Recovery Act, which passed last Congress by an overwhelming margin of 429-to-1, mandated a project to manage our forests for health and safety, while providing for a responsible, ecologically sound level of harvesting to benefit local economies.

The Forest Service was assigned the responsibility of carrying out this specific plan, but made several last minute additions to the environmental analysis that have drastically tilted the bipartisan balance that this Congress struck in the law and the Quincy Group struck in its plan.

These changes, based on a combination of bad science and special interest politics, will prevent treatment on almost all of the 2½ million acres to be protected from catastrophic fire under the original plan. The decision was made behind closed doors, without public input.

Mr. Speaker, the Forest Service has taken it upon itself to circumvent a law that this Congress passed almost unanimously. The Quincy plan presented us with an opportunity to proactively prevent the very type of catastrophic forest and wildland fires that have ripped through 5 counties in my district in Northern California in the past 8 weeks, tragically taking two human lives.

These fires have also burned more than 250,000 acres of public and private property, destroyed more than 100 homes, eliminated thousands of acres of wildlife habitat and various species of wildlife, and generated tons of smoke. In addition, the American taxpayers have paid close to $100 million to fight these fires.

However, the Forest Service has rejected this plan and has scaled it back to the point that it is almost meaningless, perhaps hoping the fire risks will somehow go away, despite the fact that the risk of catastrophic fire across the West is increasing.

The agency proposes to lock up our choked, fire-prone forests and allow prescribed fires to achieve its so-called forest management goals, even though this policy causes serious air pollution and poses a very real risk that a burn will get out of control, as it has on a number of occasions.

To add to this outrage, Mr. Speaker, the administration recently proposed to lock up an additional 40 to 50 million more acres of national forests, preventing the very management strategies that our fire experts are telling us we absolutely must take.

This attempt to shut down access to the public's forest lands is too much about what special interest groups demand and too little of what their own elected government and science recommends.

This Clinton-Gore administration has needlessly put our lives and property at risk in a selfish attempt to create an environmental legacy. The reality of our forest health crisis is that more, not less, of our forests must be available for pursuing forest management strategies.

We must begin to take proactive steps before catastrophic fires become more widespread. The forest service and this administration have refused to respond and have neglected congressional attempts to address the crisis. They appear ready to serve special interest environmental politics until well after the election.

Regrettably, forest fires are not that patient.

Mr. Speaker, our forests and our communities are at risk and we intend to do everything possible to hold this administration accountable for its negligence.

A LIVABLE COMMUNITY IS ONE WHERE FAMILIES ARE SAFE, HEALTHY AND ECONOMICALLY SECURE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Oregon (Mr. BLUMENAUER) is recognized during morning hour debates for 5 minutes.

Mr. BLUMENAUER. Mr. Speaker, a livable community is one where families are safe, healthy and economically secure. While much attention is given to the damage that unplanned growth can have to the physical environment, the physical blight, traffic congestion, loss of open space, wildlife habitat, it is clear that a community that is not livable can also have direct impacts on

the physical and psychological health of families as well.

Just this week, the South Coast Air Quality Management District in Southern California released a report documenting the danger to people breathing the toxic air that is concentrated near southern California's congested freeways. This danger has increased the risk of cancer. People today are increasingly concerned about the soaring rates of asthma among our children which clearly appears related to the toxins we are putting into the air.

Recently, there was an article that I found amusing in the Washington Post, about how some people really enjoy the real long commute. It helps them center themselves and prepare for a long day.

I suppose that may be true for some, but when the average American spends more than 50 work days a year trapped behind the wheel of a car, just getting to and from their occupation, and when we have lost 43 more hours in the last 5 years to commuting, there are direct implications. I would venture that for a much larger number the commute to work is not the highlight of their day.

The National Sleep Foundation has reported that the 158 hours added to the yearly work commutes since 1969 have been subtracted from the time many Americans sleep. Carol Rodriguez, director of the Institute of Stress Medicine in Norwalk, Connecticut, observed that people with lengthy commutes often exhibit signs of stress in the workplace.

Marriage and family counselors in the Bay Area see patients struggling with the increased demands and stress placed upon them from their longer work commutes. This struggle is manifesting itself in family problems and even divorce. It has been noted that divorce itself is no longer a reliever to the stress of long commutes and separation because often, after a family breaks up, the difficulties of two households in coordinating the needs of children and employment are usually greater in terms of time and miles driven to hold things together.

The job-related problems where employers increasingly, in congested communities, never seem to know when their employees are going to show up, seems tame by comparison.

One of the most interesting developments may be found in a report from the Center for Disease Control and prevention on increasing obesity rates in the United States. Rates have been increasing since 1991 all across America, but there was particular concern about an increase of over 101 percent in Georgia.

In 1991, when the study began, metropolitan Atlanta had one of the lowest obesity rates. What is the reason for the increase? Some blame the traditional southern diet, which it is true is often high in fat, but the South's diet is not that much different than the rest of the country today. In any case, it certainly does not explain why Georgia has the worst problem than the rest of the South.

It is interesting that the researcher placed part of the blame on the problems that metropolitan Atlanta is facing as the community has become less and less livable. The skyrocketing obesity rates coincide exactly with the explosion of unplanned growth around metropolitan Atlanta which some claim is the highest growth rate in history.

Dr. William Deats, one of the study's co-authors, points out that the time in the car encourages not just more fast food, it eats into the time for exercise. Others have noticed that Atlanta's unplanned growth has shortchanged the opportunities for outdoor exercise. It is not a walkable community. Sidewalks do not lead anywhere and even if people had the time and a place to exercise, the increasingly bad air makes the benefits of exercise problematic.

It is important for us to reflect on why the political landscape is being influenced by the discussion of livable communities and why it is such a major issue. It seems at some level the American public understands that their health, both emotional and physical, of the family, the ability to be fit, reduce stress, adequate sleep and for the family to live together is one of the first casualties if a community is not livable.

I strongly urge my colleagues to join with me in making sure that this session of Congress does its job for the Federal Government to be a better partner in maintaining and enhancing the livability of American communities.

REPUBLICANS ARE NOT ISOLATIONISTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Nebraska (Mr. BEREUTER) is recognized during morning hour debates for 5 minutes.

Mr. BEREUTER. Mr. Speaker, I have not participated in morning hour before but sometimes we hear things in the news that just cause us to be so upset we come to the floor, and that is what I am doing here today.

President Clinton, Mr. Speaker, made an address to Georgetown University yesterday and some people say it was an extension of an olive branch to Republicans who he had labeled as isolationists and who he criticized for partisanship when the other body refused to approve a comprehensive test ban treaty.

I welcome his initiative but I would like to set the record straight here today and raise a few questions that relate to some of my Democratic colleagues, too.

I have tried to provide bipartisan leadership in the House Committee on International Relations. Indeed the gentleman from Nebraska (Mr. BARRETT) and I come from the only state legislative body that is nonpartisan, our State legislature of Nebraska, so I find the degree of partisanship here in the Congress to be very unusual and not productive. However, I would have to say this, Mr. Speaker, to the President, when national security advisors and secretaries of defense of both parties from past administrations are critical of the proposed treaty and suggest that it should not be ratified in its current form, then I think it is inappropriate for this administration and for this President to label any opponents of the treaty as isolationists.

This use of the isolationist label contributes further to something that the National Journal perpetrated a few weeks ago when their cover story suggested that Republicans, particularly those in the House of Representatives, were isolationists.

I have to say to my colleagues, that yes, there are people that I suppose could properly be labeled isolationists on the Republican side of the aisle and some whose actions I certainly do not approve of in terms of their impact on foreign policy, but I would have to say also, Mr. Speaker, to the President and to the Administration, that when it comes to isolationism, he may look to his own party, particularly in the House.

It is, after all, Democrats who were only willing to give 20 percent of their votes to fast track authority for trade agreements to their own President. This is the first President, since we began the process of fast-track, since President Ford, who has been denied fast track authority to negotiate bilateral and multilateral trade agreements. Only 20 percent of the members on the Democratic side of the aisle were willing to support that. At least 80 percent on the Republican side were willing to vote for fast-track authority for President Clinton by whip counts conducted by the two respective parties.

I would also say this goes on top of the fact that the major opposition to the Africa trade bill and to the Caribbean trade bill came from the Democratic side of the aisle; there were more votes on the Republican side of the aisle for fast-track in both Houses.

I also think it is important that we look at what happened last April, when Premier Zhu Rongji came here from the People's Republic of China with a commercially viable trade agreement for accession to the WTO. Everyone was shocked with the fact that this Administration rejected it. As I understand it, all of the President's primary substantive advisors suggested he should seize the moment and agree to what was a much more beneficial agreement from the United States point of view than we had expected. His political advisors said, no, do not do this, Mr. President.

Now, there are many suggestions that this is because of the relationship and controversy related to alleged Chinese campaign contributions to the

WTO was not a Republican one.

Just a few minutes ago, one of our colleagues from Oregon (Mr. DEFAZIO) suggesting his great concerns about the WTO and was very critical of his own Administration. I would say to the National Journal, when they do an article like that cover story on Republican isolationism perhaps they ought to be a little bit more careful that they are doing it competently and that they are not doing it with bias.

I was also very concerned, Mr. Speaker, when I saw some comments by National Security Advisor Sandy Berger when the conflict took place in East Timor. He suggested in a variety of ways, some things he has retracted, others he has not, that we, of course, could not be involved even in assisting the Australians in trying to keep peace in East Timor because, after all, it was not in the center of Europe.

Now, if that is not isolationism, at least it is Eurocentrism, and it is the kind of thing that bothers Asians and Pacific leaders and their citizens, and with good cause.

I urge my colleagues to take a look at the need to come back for bipartisanship in foreign policy and I urge the administration, Mr. Speaker, to be more careful that they do not alienate some of their best friends for a bipartisan foreign policy on the Republicans' side of the aisle in either House of Congress.

WTO IN SEATTLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 4 minutes.

Mr. BROWN of Ohio. Mr. Speaker, many of us have come to this floor of the House of Representatives today and on previous days for 5 minutes and 1 minutes in various speeches to talk about asking that the United States not support accession for China to the World Trade Organization. We are instead insisting that labor standards and environmental standards be applied to our trading partners, the same kind of environmental standards and labor standards that we follow in this country. If that makes us isolationists, as my friend, the gentleman from Nebraska (Mr. BEREUTER) suggested earlier, then so be it. But the fact is that those of us that believe in the right kinds of labor standards and the right kinds of environmental standards around the world want to lift people up around the world, not continue this downward spiral on food safety and labor standard and environmental standards that our trading policy seems to move us towards.

Republican leadership last week wrote a letter to the administration demanding that our USTR, U.S. trade rep bureaucrats, do not include labor standards in any of the discussions at the World Trade Organization. The Republican leadership of the Committee on Ways and Means is insisting that the U.S. trade rep ensure that developing countries require that we protect property rights but not human rights, not labor standards, not environmental rights.

At the same time, Mr. Speaker, Trade Ambassador Charlene Barshefsky, an unelected official who never seems to miss an opportunity to publicly diminish the importance of labor rights, was supposed to meet with some of us here in the House last night and explain whether or not the administration really plans to push for stronger worker environmental rights in Seattle.

What happened? Did we have a chance to talk about how Huffy Bicycle has closed its last American plant because it cannot compete with cheap imports from China, a place where trying to form an independent trade union will get one thrown in prison or even killed?

Did we have a chance to talk about some of the maquilladora factories in Mexico which dump their pollution into the same water that their workers have to drink?

Did we get a chance to talk about why armed guards will not permit independent monitors into the garment factories in El Salvador which ship millions of dollars worth of merchandise here every year?

No, we did not, and that is because Ambassador Barshefsky and a score of other American trade bureaucrats were heading off to the People's Republic of China to try to secure a last minute deal to get China into the World Trade Organization.

As we speak, U.S. trade bureaucrats are busy coddling the same gang of dictators that are busy arresting, torturing and even killing Chinese people that practice Falun Gong, which as far as I can tell is the same thing as torturing and killing Christians and Muslims and any other group of people that have spiritual beliefs in that country.

So instead of having a real dialogue on whether the Seattle ministerial will have any discussion about human rights, worker rights, human rights, instead of having a chance to hear exactly what is going to happen in Seattle, the administration wants to commit this country to a policy that will continue to hurt workers, a policy that continues the human rights abuses, child labor, slave labor, forced abortions, persecution of Christians and Muslims and Falun Gong and all kinds of religious minorities in China that will continue to allow that kind of policy to happen in China.

We can bet the farm on it. If the People's Republic of China accedes to the World Trade Organization, if this country's government supports China accession to the World Trade Organization, that is the last we will ever hear about human rights.

Do we really think a totalitarian government that performs forced abortions is ever going to protect labor rights? Do we believe that a totalitarian government which kills thousands of its own people in slave labor camps and then sells their organs is ever going to let the WTO implement any sort of framework to protect the rights of workers?

Mr. Speaker, we should stand strong against the accession of China to the WTO.

ANTIDUMPING AND ANTISUBSIDY PROVISIONS SHOULD NOT BE NEGOTIATED AWAY IN NEW ROUND OF WTO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Indiana (Mr. VISCLOSKY) is recognized during morning hour debates for 4 minutes.

Mr. VISCLOSKY. Mr. Speaker, I rise to press my argument that as the new round of WTO negotiations begin in Seattle later this month, we should support the administration's position not to negotiate away the antidumping and antisubsidy provisions of our trade laws.

I would also ask that this House vote to support this position by supporting H. Res. 298.

Seattle is the follow-on to the Uruguay Round which was completed on April 15, 1994, and signed by ministers from over 125 countries. Part of this agreement included changes to the antidumping laws which had been included in GATT since its original inception in 1947. In fact, article 6 of the 1947 GATT states very clearly that the contracting parties recognize that dumping is to be condemned.

The scope of negotiations at the Seattle round discussions of the World Trade Organization were specified during the Uruguay Round. However, some countries now are seeking to circumvent the agreed list of negotiating topics and reopen the debate over the WTO's antidumping and antisubsidy rules.

Antidumping duties are assessed on imported merchandise that is sold at less than fair market value. Countervailing duties are assessed to reverse the effects of foreign government subsidies to manufacturers. Today, over 290 products from 59 countries have been found to have been traded in violation of these international standards.

The ability to impose binding tariffs and apply them equitably to all trading partners is the key to a smooth and liberal flow of trade. Many of my colleagues think that this is a steel issue. That could not be further from the truth. The experience of the U.S. cement industry indicates that the antidumping law can be an effective remedy for unfairly priced imports.

U.S. consumption of cement increased substantially during the 1983 to 1989 economic expansion as construction boomed. U.S. cement producers, however, were prevented from benefiting in this growing demand by a surge of low-priced imports in that 6-year period of time.

U.S. production capacity declined by 10 percent and the number of U.S. plants decreased from 142 to only 109.

Beginning in 1989, southern cement producers successfully prosecuted antidumping petitions against imports from several countries. The Commerce Department found dumping margins for imports from 58 to 64 percent. As a result of these measures, cement producers began their recovery process in our country.

Another example often cited is that of the U.S. semiconductor industry in 1986. After foreign dynamic random-access memory chips, DRAMs, were dumped in the United States for 2 years, 7 out of 9 U.S. companies ceased making these chips.

After those foreign firms dominated the world market, they raised the price of DRAMs. The subsequent use of U.S. antidumping laws contributed finally to the revival of the U.S. semiconductor industry, which in 1993 again held the number one position in the world.

Given the fact again that there are 230 cosponsors of House Resolution 298, I would renew my request to the House leaders that this measure be brought to the floor for a vote.

RECESS

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

Accordingly (at 9 o'clock and 38 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

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

PRAYER

Rabbi Joel Tessler, Temple Beth Shalom, Potomac, Maryland, offered the following prayer:

In the Bible, the Prophet Billim is hired to curse the Jewish people, the chosen people of God. Try as he might, God would not place in him the spirit of condemnation and curse, but enveloped him in true understanding with purity and love.

Billim uttered these famous words which were said as a person enters the synagogue: ''How goodly are your homes of Jacob, your institutions of Israel?''

Why do we praise our homes when we enter the synagogue? The Lord taught Billim that our institutions are only as strong as our homes.

If the American family is under siege, is it any wonder that our schools are becoming battle zones for children and teachers?

Money alone cannot substitute for the foundation and grounding that parents, grandparents, and families provide. Every discussion in these halls must be judged with an eye on how goodly are our homes, the homes we help our citizens create.

Our institutions, whether schools or houses of worship, are only as strong as the families which make up this great land.

Today is the anniversary of Kristel Nacht, the night of the broken glass, when darkness descended upon Nazi Germany and thousands of synagogues were set on fire.

Our institutions and the future of our society depends on the families we help support. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. DEUTSCH led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 348. An act to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs.

H.R. 915. An act to authorize a cost of living adjustment in the pay of administrative law judges.

H.R. 3061. An act to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refuge assistance program under chapter 2 of title IV of the Immigration and Nationality Act.

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

H.R. 2724. An act to make technical corrections to the Water Resources Development Act of 1999.

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

S. 923. An act to promote full equality at the United Nations for Israel.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

S. 1809. An act to improve service systems for individuals with developmental disabilities, and for other purposes.

S. Con. Res. 30. Concurrent resolution recognizing the sacrifice and dedication of members of America's nongovernmental organizations (NGO's) and private volunteer organizations (PVO's) throughout their history and specifically in answer to their courageous response to recent disasters in Central America and Kosovo.

S. Con. Res. 68. Concurrent resolution expressing the sense of Congress on the occasion of the 10th anniversary of historic events in Central and Eastern Europe, particularly the Velvet Revolution in Czechoslovakia, and reaffirming the bonds of friendship and cooperation between the United States and the Czech and Slovak Republics.

WELCOMING RABBI JOEL TESSLER TO THE HOUSE OF REPRESENTATIVES

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

Mr. DEUTSCH. Mr. Speaker, it is my pleasure to introduce to the House Rabbi Tessler from Beth Shalom, Potomac, Maryland, who has really welcomed me into his community.

My family and I recently moved to Potomac and have found a community rabbi who has been there for 17 years and has made our home a home that we have been very lucky and blessed to be part of.

I wish him many, many years more in terms of striving to affect not just the area in suburban Washington but the entire country, in fact, the entire world.

TENTH ANNIVERSARY OF FALL OF BERLIN WALL

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

Mr. GIBBONS. Mr. Speaker, 10 years ago, one of the most recognized symbols of the Cold War, the Berlin Wall, was leveled by the hammer of freedom. Today the entire free world commemorates the 10th anniversary of the fall of the Berlin Wall.

On November 9, 1989, when President Ronald Reagan's belief of peace through strength prevailed as demonstrators from East Germany began to tear down the wall, thus signifying the beginning of the end of one of the most oppressive and vicious regimes in history.

While the final collapse of Communism in the former Soviet Union occurred shortly after President Reagan left office, history shows that it was his bold vision and courageous actions that led to this historic event.

Ten years later, the world can still hear the echoes of the cheers that erupted at the Brandenburg Gate when President Reagan called upon Soviet leader Mikhail Gorbachev to tear down this wall.

Today we commemorate freedom and democracy throughout most of the world, and we also celebrate President Reagan's bold vision and courageous quest for freedom.

Mr. Speaker, as we continue our work in Congress, I urge all my colleagues to help celebrate the freedom and democracy that helps keep America strong.

CRIMINALS HAVE MORE RIGHTS THAN LAW-ABIDING CITIZENS

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

Mr. TRAFICANT. Mr. Speaker, a Minnesota factory worker said, enough is enough. His cabin was ripped off three times. His neighbors' cabins continue to be ripped off. The police said they could do nothing.

So Lenny Miller booby-trapped his cabin and busted the burglar red-handed. And guess what? Some bust. Lenny Miller is going to jail with a $12,000 fine. And the burglar is getting free health care.

Beam me up. Something is wrong, Mr. Speaker, when Americans cannot protect their own property and when criminals have more rights than law-abiding citizens.

There is one bright side. I yield back the fact that in Wisconsin there will not be many cabins ripped off this year thanks to Lenny Miller.

TRIBUTE TO SERVICE OF SERGEANT RONALD D. BUSBY

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

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to commemorate the heroic service of Sergeant Ronald D. Busby.

From his hometown of Columbus, Ohio, Ronald answered the Vietnam War's call to arms by enlisting in the U.S. Army in 1967 at the age of 20. He quickly earned the rank of sergeant and began to distinguish himself for his acts of courage and leadership.

On the evening of August 8, 1968, Sergeant Busby led a night ambush patrol. For his actions that evening, he was awarded the Silver Star, Bronze Star, and Purple Heart.

Tragically, like so many of his fellow soldiers, Sergeant Busby was killed in action that fateful evening. He was three days shy of his 21st birthday.

I have heard the phrase ''All gave some, some gave all.'' For veterans like Sergeant Busby, those six words represent more than a phrase; they represent a legacy larger than the tallest mountain. His example lives on as a reminder that America will remain the land of the free only so long as it remains the home of the brave.

As we approach the final Veterans Day of the 20th century, let us remember Sergeant Busby and our countless veterans who served their country so faithfully for our freedoms.

TRIBUTE TO JANE SMALL, FOUNDER OF NATIONAL WOMEN'S POLITICAL CAUCUS

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

Ms. WOOLSEY. Mr. Speaker, I rise to pay tribute to Jane Small, one of the founding mothers of the National Women's Political Caucus. Jane recently passed away.

In 1971, Jane worked to found the NWPC to recruit and support women seeking elected office regardless of party affiliation.

During Jane's history, she guided the caucus through the ERA movement and the struggle to secure a woman's right for reproductive choice. As an inspired feminist and activist, Jane was a key player in electing numerous candidates across the Nation.

I know Jane particularly for her leadership in California politics. She served on both Governor Jerry Brown's and Governor Gray Davis' advisory committees on women's issues.

Jane was an activist. She was a leader. Women in the political arena live in her legacy. She will be forever missed.

PUBLIC SCHOOL TEACHERS—AMERICA'S UNSUNG HEROES

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

Mr. BARTLETT of Maryland. Mr. Speaker, public school teachers are America's unsung heroes. Day in and day out, they dedicate themselves to helping prepare our children for the future.

It is important to make sure our children's teachers have access to the training and tools they need to meet their commitment to students and parents.

But the Clinton-Gore administration disagrees. It wants the Federal Government to hire 100,000 teachers; but it puts hardly any emphasis on quality. That just does not cut it.

America's children do not just need teachers. They need good teachers. Many of the teachers out there are good, but many could be better and they deserve the chance to make themselves better.

Where new teachers are needed, new teachers should be hired. Where teacher quality is a greater concern, State and local initiatives like merit pay, teacher testing, tenure reform, and new opportunities for teacher development might be better uses of that money.

So let us give teachers the opportunity to be the best teachers they can be, and let us give America's children the best hope for a bright future.

AMERICA WANTS A CONGRESS THAT WORKS FOR THEM

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

Mr. STUPAK. Mr. Speaker, this Republican-led Congress is a Congress of catchy slogans and gimmicks in trying to pass the appropriation bills, gimmicks like trying to create a 13th month for budget purposes, gimmicks like trying to declare everything an emergency, like the 2000 census, even though it has been in the Constitution for over 200 years.

Now their latest gimmick is a button to tell themselves to stop raiding the Social Security Trust Fund. Instead of gimmicks in raiding the Social Security Trust Fund to pay for the emergency spending, American people ask for things that cost very little and would improve their lives, like a patients' bill of rights so they and their doctors can make their medical decisions and not the HMO; like an increase in the minimum wage so everyone can enjoy our strong economy; like 100,000 more teachers so we can have smaller class sizes; and prescription drug coverage for seniors.

Mr. Speaker, let us work for the American people. Unfortunately, under the Republican-led Congress, it is always the same old story. Tax breaks for the rich and a tax on Government. America wants a Congress that works for them, like Democrats are fighting for.

CONGRATULATING CESAR ''EDDY'' BLASS

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

Ms. ROS-LEHTINEN. Mr. Speaker, this morning I am delighted to congratulate Mr. Cesar ''Eddy'' Blass, who will celebrate 15 years as president of the American Peruvian Action Committee, APAC–USA.

Eddy has won the attention of his community with his service which has enabled him to contribute to our South Florida community. He is a dedicated, tireless advocate for the plight of the Peruvian Americans in their long-sought goals of residency and eventual U.S. citizenship.

Through his actions, Eddy has become a leader in the fight to unify Peruvian Americans throughout the United States; and, as a result of his extensive community service, he has received a host of awards, certificates, and recognition.

This Saturday APAC will commemorate its 15th anniversary and honor its president and founder, Cesar ''Eddy''

Blass. He has been an inspiration to the lives of his fellow countrymen, as well as for our entire South Florida community.

In honor of his 15th anniversary as president of the American Peruvian Action Committee, I ask my colleagues to join me today in paying tribute to Cesar ''Eddy'' Blass.

AMERICANS DESERVE TO HAVE ISSUES THEY CARE ABOUT MOST ADDRESSED

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

Mr. LAMPSON. Mr. Speaker, I rise today because this Republican Congress is failing American families.

The gentleman from Illinois (Speaker HASTERT) originally promised that the Republican-controlled Congress would finish work on the budget nearly 2 months ago. Yet, they continue to sit here and waste our time with political stunts.

The American people have become used to a Republican Congress that is no longer just a ''do nothing'' Congress, but a ''do the wrong thing'' Congress.

Americans deserve a budget; they deserve to have the issues they care about most addressed. There is positive legislation that our constituents are asking us to bring to the House floor. We could be saving Social Security, building new schools, reducing classroom size. We could be increasing the minimum wage so that workers can provide for their families. We could be ensuring patients' rights and putting the care back into health care. Instead, we are mired down in partisan rhetoric and debate.

Mr. Speaker, the people of southeast Texas and I have been waiting for over 5 weeks for the Republicans to finish the budget, but we cannot wait much longer. They need to quit stalling and together let us get the people's business done.

EDUCATION SPENDING BILL

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

Mr. SCHAFFER. Mr. Speaker, there are few issues in America more important than education. And in fact, the White House and Congress really do not disagree on the amount of money that we ought to spend on schools in this year's appropriations process. But what is holding up the debate is the question of how to spend those dollars.

The Republican party clearly believes that governors and State legislators, school board members, and principals and superintendents ought to be free to spend the dollars that we are appropriating as they see fit. But the President has a different idea. He wants to tell States specifically how they must spend the money.

In some States, hiring more teachers makes sense. In other States, it might not. But here is the President's answer to the question put by a reporter: ''Mr. President, on the issue of funding for teachers, sir, you resent it when Congress tells you to spend money in ways which you do not deem appropriate. Why should a state governor who would like to spend that money differently feel any differently?''

The President's answer: ''Well, because it's not their money.''

When you have an attitude like that in Washington that the taxpayers' money belongs to Washington and not the taxpayers, it explains how the White House is willing to squander the American tax dollars in a way that neglects children and abandons our schools.

SAY YES TO AGENDA FOR AMERICAN FAMILIES

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

Mr. ALLEN. Mr. Speaker, in response to the previous speaker, I sat yesterday with the superintendent of schools in the city of Portland and members of the school committee in Portland, Maine; and they do not want block grants. They want class size reduction above all else.

Mr. Speaker, this session is winding down and the Republican Congress has a sorry record. We have not done very much this session, and much of what we have done has been done wrong.

Many Democrats worked hard to pass campaign finance reform with the help of some Republicans here, but the leadership has killed it. Democrats tried to make our schools safer by passing modest gun safety laws, but Republicans said no. Democrats have worked to make health care safer for patients by passing a patients' bill of rights, but Republicans said no.

Democrats in this administration tried to make the world safer by ratifying the Comprehensive Test Ban Treaty. Republicans said no. Democrats have been working hard to get prescription drug legislation passed, but Republicans in the Committee on Ways and Means the other day said no.

Next year let us say yes to an agenda for American families. Let us say yes and get this agenda enacted.

AMERICAN FAMILIES DESERVE BETTER

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

Ms. DELAURO. Mr. Speaker, the Republican majority has failed to act on the basic issues facing hard-working Americans. The Republican leadership started the year by trying to spend the surplus on an $800 billion tax break for the wealthiest Americans, and they did this despite the fact that we need to strengthen and protect Social Security and Medicare. Their current plan fails to extend the life of Social Security by even one day. It neglects the need for a Medicare prescription drug benefit and hurts every American family in some way.

The Republican leadership stifles common sense gun safety measures like child safety locks and background checks at gun shows, despite the fact that 13 children are killed every single day by guns. The Republican leadership is siding with the gun lobby and letting gaping loopholes remain open.

This Congress should not leave town before its work is done.

The Republican leadership should listen to the public, enact sensible gun safety laws, strengthen Social Security and Medicare, pass a prescription drug benefit bill and a minimum wage bill. Our families deserve better.

RESPONSIBILITY IN EDUCATION

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

Mr. HAYWORTH. Mr. Speaker, we have all heard of the three Rs when it comes to education. Let me add a fourth R: responsibility, because responsibility is the key. Yesterday, Mr. Speaker, the President of the United States, responding to the press when it comes to judicious spending of educational dollars said, and I quote, ''Well, because it is not their money.''

Mr. Speaker, the President of the United States and my colleagues on the other side of the aisle ought to understand both the arithmetic and the responsibility. My liberal friends want the money to be controlled by the educational bureaucrats in Washington. We in the common sense, conservative majority say the money should be spent at home, first and foremost by teachers in the classrooms, by superintendents in the districts, and yes, by governors in the States, along with the respective superintendents of public education. Because while education is a national priority, it ultimately is a local concern.

Mr. Speaker, the President and my liberal friends should join with us to make sure that local control and responsibility is paramount.

FEDERAL GOVERNMENT SHOULD ALLOW MICROSOFT TO CONTINUE TO INNOVATE FOR AMERICANS

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

Mr. INSLEE. Mr. Speaker, I am calling on the United States Justice Department to put away any dream of breaking up Microsoft. Microsoft and its employees should not be punished for being one of the most creative, dynamic teams of people in American economic history.

Mr. Speaker, many of the people who work at Microsoft live in my district, and I can say with confidence that they are undaunted by this struggle, they are focused, and I am confident that their team will continue to bring new products to the American people.

Mr. Speaker, the American consumer has benefited amazingly by the innovation that is taking place in this industry. Computers are more powerful, software is more powerful, and more people have access to the Internet every day.

There is competition in this industry, and if my colleagues do not believe me, look at the stock market where millions are putting their hard-earned dollars investing in Microsoft's competitors, and that is fine. But, Mr. Speaker, consumers are enjoying the benefits of a vigorous electronic industry.

The Federal Government should put away any scheme to dismember the most creative, the most dynamic industry in the history of the world.

SQUEEZING A NICKEL OUT OF FIVE DOLLARS

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

Mr. KINGSTON. Mr. Speaker, if a schoolboy gives his favorite teacher an apple, she will probably take a small bite out of it, something like that, just modest.

Now, if the taxpayer, his parents send the same apple in the form of tax dollars to the Federal Government, this is what they deem as their fair share, and that is the debate we are in today.

What we are asking is that the Department of Education, just like all the other Federal agencies, get $5 and squeeze a nickel out of it.

Now, I am a father of four. I have two teenagers and two who still love me. We have to sit around the kitchen table every night to come up with ways to save money. Mr. Speaker, if we can buy our gas for $1.07 a gallon, we go two more blocks so we do not have to pay $1.10. I do not buy new suits until they are on sale, and my colleagues might be thinking, well, I hope there is a sale coming up soon.

I do not get a steak when I go out to eat; I get chicken, and we do not buy Special K unless we get the 35 cents off coupon.

All we are asking of the Department of Education and all of the Federal bureaucracies in Washington is to find that little old nickel out of the $5 so that we can save Social Security.

UNFINISHED BUSINESS OF THE 106TH CONGRESS

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. BERKLEY. Mr. Speaker, when I came to Capitol Hill 10 months ago to represent my hometown of Las Vegas, I made a promise to fight for the fastest growing senior population in the country and for all of the working families like mine that have moved to Las Vegas in search of a better life.

There are two pieces of unfinished business that are critical to my district, a patients' bill of rights and the prescription drug coverage for southern Nevada citizens.

Over and over again I hear from my constituents, from working parents worried about health care coverage for their families, from seniors having to choose between buying food and buying medicine. They need help and they do not care about Washington politics. The patients' bill of rights is a bipartisan issue because everybody should be able to determine the best course of medical treatment and consultation with their own doctor. If HMOs make decisions like doctors, they should be held legally accountable like a doctor.

We need to enact a bill that protects the patients' bill of rights, not the HMO's bottom line. We need to pass a bill to ensure prescription drug coverage for seniors. We did a cost survey and found that uninsured seniors in my district pay two, three, or four times the price that insured seniors pay for some of the most common prescription drugs. These drugs keep them alive, but financially it is killing them.

I stand up for all of the seniors in my district.

MORE UNFINISHED BUSINESS OF THE 106TH CONGRESS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, a few days ago I counted down the hours that we had remaining in this session, and I asked the question of what we could do for our young people in providing them safe schools. And I ask now the question with maybe less than 24 hours in this session, at least as we know it, whether or not this Congress is going to be known as having done good or having harmed the American people.

The question is, are we going to pass what the American people have asked us to, which is a patients' bill of rights, so that we can stop once and for all drive-by emergency rooms, so that we can give women the right to have their OB-GYN as their primary provider, so that we can have second opinions, so that we can reestablish the patient-physician relationship. While all of our loved ones are under the care of a physician, how tragic it is for them to have to call for a procedure and someone at a phone who does not even know who they are says no, you cannot have it.

We need a patients' bill of rights.

I did a study in my district, and how unfortunate it is that my seniors are having to pay light bills and having to pay rent, but cannot buy their prescriptions, of having to cut their prescriptions in half. What a tragedy. Yes, Mr. Speaker, is it not unfortunate that we do not have real gun safety in America when 80 percent of the American people say we want reasonable gun safety and we want our children to be safe in schools.

ACCOMPLISHMENTS OF THE 106TH CONGRESS

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

Mr. DREIER. Mr. Speaker, I am really stunned to listen to my colleagues on the other side of the aisle talk about the fact that the 106 Congress has not accomplished much of anything. I guess that is sort of their message today. So it is incumbent upon us to point out, once again, the great accomplishments that we have made in this Congress.

At the beginning, Speaker HASTERT stood right here on the opening day and talked about the need to improve public education. We have done that by passing the Education Flexibility Act so that local school districts can make decisions as to how to best educate their children. We passed the Teacher Empowerment Act, which also moves further in that direction.

Tax relief for working families. We did it; we did it. People are taxed more than they ever have been since the Second World War, and the President unfortunately vetoed that measure and the Democrats on the other side of the aisle voted against it. We said that we wanted to save Social Security and Medicare, and we all know that we have locked up the Social Security Trust Fund for the future, going well beyond the 62 percent that the President advocated when he stood here in his State of the Union message.

And rebuilding our Nation's defense capability. We passed the National Missile Defense bill, which is very, very important to our national security, and the Defense appropriations bill. We have accomplished a lot in this 106th Congress, and do not forget it.

GOP BUDGET GIMMICKS

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

Mr. CROWLEY. Mr. Speaker, as the GOP leadership in Congress struggles to complete its appropriations work, now a full 40 days past the end of the fiscal year, I thought it fitting to examine their record of Social Security budget gimmicks this year. There simply are not enough apples in this city to demonstrate adequately what the Republican Party is doing here. They simply take apples from one basket and, before they put it in the other,

they take a couple of bites out of it and then they turn the apple around so Americans cannot see what they have done to that apple.

Recently the Republican majority in this chamber has gone around stating they are the only ones able to protect and strengthen Social Security. How come they elected their leader, a person who pledged, and I quote, ''to bite the bullet and phase Social Security out over a period of time.'' The fact is, Republicans have a history of voting against Social Security. In 1935, only one Republican, Frank Crowther of my own State of New York, had the courage to buck his party and vote against a Republican motion to recommit Title II to strike out old age and unemployment insurance provisions. It would have effectively killed Social Security as we know it today. Only one out of 96 Republicans had the courage to vote in favor of Social Security.

Mr. Speaker, I ask all of my colleagues to continue to support the Social Security system as we know it today.

INVESTMENTS IN EDUCATION FOR OUR CHILDREN

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

Mr. WU. Mr. Speaker, I was at home at the Verboort Sausage Festival this past weekend. It is a wonderful community event. I had the privilege of sitting next to Don and Lois Tayler. Lois Tayler's grandfather owned 100 acres on part of which Findley Elementary School now sits. As Oregon pioneers, the Findleys understood the value of education. And Don and Lois, who are schoolteachers now, know that that school has 900 kids in it, but it was built for 700.

This Congress has the ability to help with that situation, with school modernization and class size reduction, and we should not go home until we get those jobs done to keep faith with people like the Findleys, like the Taylers, and other Oregonians who made investments in their day for their children. We should be making similar investments in our day for our children.

□ 1030

IN THE FIELD OF EDUCATION, ONE SIZE DOES NOT FIT ALL, AND QUALITY MATTERS

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

Mr. STEARNS. Mr. Speaker, not everyone likes pickles on their hamburgers. For many years that preference meant a longer wait at McDonald's, because if you did not want what was already under the heat lamp, they had to do a specialty order. All those burgers under the heat lamp had pickles on them. But you did get a fresher burger.

People who like pickles on their hamburgers, on the other hand, usually did not have to wait. In fact the burgers were already waiting for them, so they were less fresh and lower quality.

All that has been changing. McDonald's restaurants now prepare your meals when you order them. This means you get exactly what you want. It is a fresher, higher quality product.

There are two simple truths inspiring the McDonald's reform: First, one size does not fit all. Second, quality matters.

Let us apply these simple truths to education reform. Instead of mandating new teachers, let us give the States and local communities the opportunity to ensure higher teacher quality and to spend that money on what they know will work in their schools, because one size does not fit all, and quality does matter.

PAYMENT OF U.N. ARREARS

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

Mrs. LOWEY. Mr. Speaker, the United States has earned the reputation as the United Nations' number one deadbeat. If my colleagues want to help restore our good name and regain our influence in the U.N., they need to join me today in supporting immediate and full repayment of our U.N. arrears.

This funding is critical to United States' foreign policy. It shows the international community that a commitment made by the United States means something. It gives the U.N. the resources it needs to carry on the important work it is doing around the globe.

The United States has a tremendous amount of influence within the U.N., but that level of influence decreases with every day that we do not pay our arrears. In fact, at the end of this year, we face the prospect of losing our vote in the General Assembly.

How can we expect the U.N. to continue to take our interests into account around the world? How can we expect them to fund the projects we support and to send peacekeeping troops to areas where we want to see more stability when we do not contribute? How do we expect to help to continue to reform the U.N. in a meaningful way if we do not pay our debt? Let us pay our dues now.

EDUCATION

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

Mr. PITTS. Mr. Speaker, this week as we get down to the wire on budget negotiations, I rise to speak on behalf of education, our children, and the classroom as the priority in this country.

More teachers is a great idea. I applaud it. However, more teachers may not be the immediate or only need in some of our school districts. Some schools may need better teacher quality, they may need teacher training, teacher improvement. Some may need books and equipment, supplies. The list goes on.

The funding levels that we have been discussing are not at odds here. This is a question of who knows best, Washington bureaucrats, or local teachers and principals in the local public school classroom.

The President's goal may be noble enough, but his means of achieving it are flawed. Who can argue with the fact that local control is the best means by which we can truly support our schools? Let us empower our students, our teachers, with the tools that they need to take our kids to the next step of the learning process. Let us give our local schools more flexibility, more local control when we send this money back to the classroom.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; that all points of order against the conference report and against its consideration be waived, that the conference report be considered as read when called up, and that House Resolution 364 be laid upon the table.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from California?

There was no objection.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS FOR THE REMAINDER OF THE FIRST SESSION OF THE 106TH CONGRESS

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the joint resolution (H.J. Res. 76) waiving certain enrollment requirements for the remainder of the first session of the 106th Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

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

Mr. MCNULTY. Mr. Speaker, reserving the right to object, I yield to my

good friend, the gentleman from Ohio (Mr. BOEHNER) to explain to the House why we are considering this matter at this time.

Mr. BOEHNER. Mr. Speaker, I thank my colleague, the gentleman from New York, for yielding.

I think all of my colleagues know that U.S. Code requires engrossed bills that passed both Houses to be printed on parchment in a manner determined by the Joint Committee on Printing. For large bills such as the appropriation measures that are still under debate and discussion, this requires many additional hours of time that may in fact be saved and allow us to complete our work sooner if this statute is set aside on a temporary basis.

As most of my colleagues know, this is typically done at the end of every session of Congress, and we can in fact finish our work in a more timely manner and deliver these bills more quickly to the White House for their signature.

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

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 76

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the remainder of the first session of the One Hundred Sixth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations or continuing appropriations for the fiscal year ending September 30, 2000. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

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

The SPEAKER pro tempore. Without objection, House Resolution 365 is laid on the table

There was no objection.

RECOGNIZING AND HONORING THE HEROIC EFFORTS OF THE AIR NATIONAL GUARD'S 109TH AIRLIFT WING AND ITS RESCUE OF DR. JERRI NIELSEN FROM THE SOUTH POLE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the concurrent resolution (H. Con. Res. 205) recognizing and honoring the heroic efforts of the Air National Guard's 109th Airlift Wing and its rescue of Dr. Jerri Nielsen from the South Pole, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

Mr. MCNULTY. Mr. Speaker, reserving the right to object, I shall not object, I rise simply to commend my colleague the gentleman from New York (Mr. REYNOLDS) for bringing my resolution to the floor, and to speak for a moment about its merits.

Mr. Speaker, Dr. Jerri Nielsen was stationed at the South Pole during this past Antarctic winter, and by virtue of self-examination discovered a lump in her breast. She performed a biopsy. She concluded that she had breast cancer. She administered chemotherapy and tried as best she could to endure the Antarctic winter until a plane could come and rescue her and give her more comprehensive medical treatment.

Mr. Speaker, the purpose of this resolution is to point out the heroism of those who went to rescue Dr. Nielsen. They are the members of the Air National Guard's 109th Airlift Wing, which is located in my congressional district in Glenville, New York. This mission departed the Samuel S. Stratton Air National Guard Base on October 6th, arrived at the South Pole on October 15th, traveled 11,410 nautical miles, and was led by Major George McAllister, Jr.

Mr. Speaker, this trip was historic in that Major McAllister and his crew became the first persons ever to land at the South Pole so soon after an antarctic winter. I know a little bit about the dangers faced by the members of the 109th, Mr. Speaker, because I have traveled with them both to the North Pole and to the South Pole. Of course, when I went with them, it was in the middle of the Antarctic summer, which is our winter. So when I was there in January of 1994 it was a balmy 40 degrees below zero. But in the Antarctic winter, the record low temperature is 128 degrees below zero. A complex piece of machinery like a C–130 cannot operate in that kind of temperature.

But Major McAllister and his crew went in as soon as possible, rescued Dr. Nielsen, and Dr. Nielsen is now receiving the treatment that she needs.

So on this particular occasion, I want to thank my colleague, the gentleman from New York (Mr. REYNOLDS) for allowing us to consider this resolution, and I would like, Mr. Speaker, just to mention the names of those who comprised that lifesaving crew.

They are Pilot Major George R. McAllister, Jr.; Senior Mission Commander Colonel Marion G. Pritchard; Co-pilot Major David Koltermann; Navigator Lieutenant Colonel Brian M. Fennessy; Engineer Chief Master Sergeant Michael T. Cristiano; Loadmasters, Senior Master Sergeant Kurt A. Garrison and Technical Sergeant David M. Vesper; Flight Nurse Major Kimberly Terpening; and Medical Technicians Chief Master Sergeant Michael Casatelli and Master Sergeant Kelly McDowell.

Mr. Speaker, I thank all of my colleagues for this opportunity to salute these true American heroes, and I urge all of my colleagues to support this joint resolution.

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

Mr. MCNULTY. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I want to commend my colleague, the gentleman from New York (Mr. MCNULTY), for bringing this resolution.

As a former member of the New York Air National Guard, I have had an opportunity to look at our airlift units across the State. Time and time again they have been called for emergency or war, and have served gallantly, taking on the responsibilities that have been assigned them.

As the gentleman from New York (Mr. MCNULTY) has indicated, this has been a very difficult mission to rescue Dr. Nielsen, who is a native of New York, in the aspect of bringing her back from the South Pole. Those who followed this as the mission was planned and then executed, and the history of it after it was completed, clearly saw the risk and danger that the men and women found themselves in as they were deployed to the South Pole in such tough winter conditions.

As a matter of fact, the mission was postponed for months until the weather was at a point they could land on the South Pole.

So to the 109th Airlift Wing, our congratulations, and to our colleague for bringing it forward.

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

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 205

Whereas the 109th Airlift Wing of the Air National Guard is based at Stratton Air National Guard Base in Glenville, New York;

Whereas the 109th was called upon by the United States Antarctic Program to undertake a medical evacuation mission to the South Pole to rescue Dr. Jerri Nielsen, a physician who diagnosed herself with breast cancer;

Whereas the 109th is the only unit in the world trained and equipped to attempt such a mission;

Whereas the 10 crew members were pilot Maj. George R. McAllister Jr., senior mission commander Col. Marion G. Pritchard, co-pilot Maj. David Koltermann, navigator Lt. Col. Bryan M. Fennessy, engineer Ch. M. Sgt. Michael T. Cristiano, loadmasters Sr. M. Sgt. Kurt A. Garrison and T. Sgt. David M. Vesper, flight nurse Maj. Kimberly Terpening, and medical technicians Ch. M. Sgt. Michael Casatelli and M. Sgt. Kelly McDowell;

Whereas the crew departed Stratton Air Base for McMurdo Station in Antarctica via Christchurch, New Zealand, on October 6, 1999;

Whereas on October 15, 1999, Aircraft No. 096 departed McMurdo for the South Pole, where the temperature was approximately −K53 degrees Celsius;

Whereas Major McAllister piloted a 130,000 pound LC–130 Hercules cargo plane equipped with Teflon-coated skis to a safe landing on an icy runway with visibility barely above minimums established for safe operations;

Whereas less than 25 minutes later, following an emotional goodbye and brief medical evaluation, Dr. Nielsen and the crew headed back to McMurdo Station;

Whereas the mission lasted 9 days and covered 11,410 nautical miles; and

Whereas Major McAllister became the first person ever to land on a polar ice cap at this time of year: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes and honors the crew of the Air National Guard's 109th Airlift Wing for its heroic efforts in rescuing Dr. Jerri Nielsen from the South Pole.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Any record votes on a postponed question will be taken after debate has concluded on all motions to suspend the rules.

ELIM NATIVE CORPORATION LAND RESTORATION ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3090) to amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim Native Corporation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3090

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

SECTION 1. ELIM NATIVE CORPORATION LAND RESTORATION.

Section 19 of the Alaska Native Claims Settlement Act (43 U.S.C. 1618) is amended by adding at the end the following new subsection:

''(c)(1) FINDINGS.—The Congress finds that—

''(A) approximately 350,000 acres of land were withdrawn by Executive Orders in 1917 for the use of the United States Bureau of Education and of the Natives of Indigenous Alaskan race;

''(B) these lands comprised the Norton Bay Reservation (later referred to as Norton Bay Native Reserve) and were set aside for the benefit of the Native inhabitants of the Eskimo Village of Elim, Alaska;

''(C) in 1929, 50,000 acres of land were deleted from the Norton Bay Reservation by Executive Order.

''(D) the lands were deleted from the Reservation for the benefit of others;

''(E) the deleted lands were not available to the Native inhabitants of Elim under subsection (b) of this section at the time of passage of this Act;

''(F) the deletion of these lands has been and continues to be a source of deep concern to the indigenous people of Elim; and

''(G) until this matter is dealt with, it will continue to be a source of great frustration and sense of loss among the shareholders of the Elim Native Corporation and their descendants.

''(2) WITHDRAWAL.—The lands depicted and designated 'Withdrawal Area' on the map dated October 19, 1999, along with their legal descriptions, on file with the Bureau of Land Management, and entitled 'Land Withdrawal Elim Native Corporation', are hereby withdrawn, subject to valid existing rights, from all forms of appropriation or disposition under the public land laws, including the mining and mineral leasing laws, for a period of 2 years from the date of enactment of this subsection, for selection by the Elim Native Corporation (hereinafter referred to as 'Elim').

''(3) AUTHORITY TO SELECT AND CONVEY.—Elim is authorized to select in accordance with the rules set out in this paragraph, 50,000 acres of land (hereinafter referred to as 'Conveyance Lands') within the boundary of the Withdrawal Area described in paragraph (2). The Secretary is authorized and directed to convey to Elim in fee the surface and subsurface estates to 50,000 acres of valid selections in the Withdrawal Area, subject to the covenants, reservations, terms and conditions and other provisions of this subsection.

''(A) Elim shall have 2 years from the date of the enactment of this subsection in which to file its selection of no more than 60,000 acres of land from the area described in paragraph (2). The selection application shall be filed with the Bureau of Land Management, Alaska State Office, shall describe a single tract adjacent to U.S. Survey No. 2548, Alaska, and shall be reasonably compact, contiguous, and in whole sections except when separated by unavailable land or when the remaining entitlement is less than a whole section. Elim shall prioritize its selections made pursuant to this subsection at the time such selections are filed, and such prioritization shall be irrevocable. Any lands selected shall remain withdrawn until conveyed or full entitlement has been achieved.

''(B) The selection filed by Elim pursuant to this subsection shall be subject to valid existing rights and may not supercede prior selections of the State of Alaska, any Native corporation, or valid entries of any private individual unless such selection or entry is relinquished, rejected, or abandoned prior to conveyance to Elim.

''(C) Upon receipt of the Conveyance Lands, Elim shall have all legal rights and privileges as landowner, subject only to the covenants, reservations, terms and conditions specified in this subsection.

''(D) Selection by Elim of lands under this subsection and final conveyance of those lands to Elim shall constitute full satisfaction of any claim of entitlement of Elim with respect to its land entitlement.

''(4) COVENANTS, RESERVATIONS, TERMS, AND CONDITIONS.—The covenants, reservations, terms and conditions set forth in this paragraph and in paragraphs (5) and (6) with respect to the Conveyance Lands shall run with the land and shall be incorporated into the interim conveyance, if any, and patent conveying the lands to Elim.

''(A) Consistent with paragraph (3)(C) and subject to the applicable covenants, reservations, terms, and conditions contained in this paragraph and paragraphs (5) and (6), Elim shall have all rights to the timber resources of the Conveyance Lands for any use including, but not limited to, construction of homes, cabins, for firewood and other domestic uses on any Elim lands: *Provided*, That cutting and removal of Merchantable Timber from the Conveyance Lands for sale shall not be permitted: *Provided further*, That Elim shall not construct roads and related infrastructure for the support of such cutting and removal of timber for sale or permit others to do so. 'Merchantable Timber' means timber that can be harvested and marketed by a prudent operator.

''(B) Public Land Order 5563 of December 16, 1975, which made hot or medicinal springs available to other Native Corporations for selection and conveyance, is hereby modified to the extent necessary to permit the selection by Elim of the lands heretofore encompassed in any withdrawal of hot or medicinal springs and is withdrawn pursuant to this subsection. The Secretary is authorized and directed to convey such selections of hot or medicinal springs (hereinafter referred to as 'hot springs') subject to applicable covenants, reservations, terms and conditions contained in paragraphs (5) and (6).

''(C) Should Elim select and have conveyed to it lands encompassing portions of the Tubutulik River or Clear Creek, or both, Elim shall not permit surface occupancy or knowingly permit any other activity on those portions of land lying within the bed of or within 300 feet of the ordinary high waterline of either or both of these water courses for purposes associated with mineral or other development or activity if they would cause or are likely to cause erosion or siltation of either water course to an extent that would significantly adversely impact water quality or fish habitat.

''(5) RIGHTS RETAINED BY THE U.S.—With respect to conveyances authorized in paragraph (3), the following rights are retained by the United States:

''(A) To enter upon the conveyance lands, after providing reasonable advance notice in writing to Elim and after providing Elim with an opportunity to have a representative present upon such entry, in order to achieve the purpose and enforce the terms of this paragraph and paragraphs (4) and (6).

''(B) To have, in addition to such rights held by Elim, all rights and remedies available against persons, jointly or severally, who cut or remove Merchantable Timber for sale.

''(C) In cooperation with Elim, the right, but not the obligation, to reforest in the event previously existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar manmade or natural occurrence (excluding manmade occurrences resulting from the exercise by Elim of its lawful rights to use the Conveyance Lands).

''(D) The right of ingress and egress over easements under section 17(b) for the public to visit, for noncommercial purposes, hot springs located on the Conveyance Lands and to use any part of the hot springs that is not commercially developed.

''(E) The right to enter upon the lands containing hot springs for the purpose of conducting scientific research on such hot springs and to use the results of such research without compensation to Elim. Elim shall have an equal right to conduct research on the hot springs and to use the results of such research without compensation to the United States.

''(F) A covenant that commercial development of the hot springs by Elim or its successors, assigns, or grantees shall include the right to develop only a maximum of 15 percent of the hot springs and any land within 1/4 mile of the hot springs. Such commercial development shall not alter the natural hydrologic or thermal system associated with the hot springs. Not less than 85 percent of the lands within 1/4 mile of the hot springs shall be left in their natural state.

''(G) The right to exercise prosecutorial discretion in the enforcement of any covenant, reservation, term or condition shall not waive the right to enforce any covenant, reservation, term or condition.

''(6) GENERAL.—

''(A) MEMORANDUM OF UNDERSTANDING.—The Secretary and Elim shall, acting in good faith, enter into a Memorandum of Understanding (hereinafter referred to as the 'MOU') to implement the provisions of this subsection. The MOU shall include among its provisions reasonable measures to protect plants and animals in the hot springs on the Conveyance Lands and on the land within ¼ mile of the hot springs. The parties shall agree to meet periodically to review the matters contained in the MOU and to exercise their right to amend, replace, or extend the MOU. Such reviews shall include the authority to relocate any of the easements set forth in subparagraph (D) if the parties deem it advisable.

''(B) INCORPORATION OF TERMS.—Elim shall incorporate the covenants, reservations, terms and conditions, in this subsection in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Conveyance Lands, including without limitation, a leasehold interest.

''(C) SECTION 17(b) EASEMENTS.—The Bureau of Land Management, in consultation with Elim, shall reserve in the conveyance to Elim easements to the United States pursuant to subsection 17(b) that are not in conflict with other easements specified in this paragraph.

''(D) OTHER EASEMENTS.—The Bureau of Land Management, in consultation with Elim, shall reserve easements which shall include the right of the public to enter upon and travel along the Tubutulik River and Clear Creek within the Conveyance Lands. Such easements shall also include easements for trails confined to foot travel along, and which may be established along each bank of, the Tubutulik River and Clear Creek. Such trails shall be 25 feet wide and upland of the ordinary high waterline of the water courses. The trails may deviate from the banks as necessary to go around man-made or natural obstructions or to portage around hazardous stretches of water. The easements shall also include one-acre sites along the water courses at reasonable intervals, selected in consultation with Elim, which may be used to launch or take out water craft from the water courses and to camp in nonpermanent structures for a period not to exceed 24 hours without the consent of Elim.

''(E) INHOLDERS.—The owners of lands held within the exterior boundaries of lands conveyed to Elim shall have all rights of ingress and egress to be vested in the inholder and the inholder's agents, employees, co-venturers, licensees, subsequent grantees, or invitees, and such easements shall be reserved in the conveyance to Elim. The inholder may not exercise the right of ingress and egress in a manner that may result in substantial damage to the surface of the lands or make any permanent improvements on Conveyance Lands without the prior consent of Elim.

''(F) IDITAROD TRAIL.—The Bureau of Land Management may reserve an easement for the Iditarod National Historic Trail in the conveyance to Elim.

''(7) IMPLEMENTATION.—There are authorized to be appropriated such sums as may be necessary to implement this subsection.''.

SEC. 2. COMMON STOCK TO ADOPTED-OUT DESCENDANTS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by inserting before the period at the end the following: '', notwithstanding an adoption, relinquishment, or termination of parental rights that may have altered or severed the legal relationship between the gift donor and recipient''.

SEC. 3. DEFINITION OF SETTLEMENT TRUST.

Section 3(t)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(t)(2)) is amended by striking ''sole'' and all that follows through ''Stock'' and inserting ''benefit of shareholders, Natives, and descendants of Natives,''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3090.

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

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3090 is a bill that I introduced in consultation with the Alaska Federation of Natives and ongoing negotiations and redrafts with the Department of the Interior and the Elim Native Corporation.

Considerable time has been spent to resolve the Elim land provision, and I want to especially thank Cindy Alona, Marilyn Heiman, Paul Kirton, Kim Harb, and Chip Markell of the Department of the Interior, Roy Jones and Jeff Petrich, minority chief counsel and committee staff, for their commitment to resolve this important land issue for the Elim Native Corporation.

H.R. 3090 will authorize the Elim Native Corporation, a village corporation established under section 19(b) of the Alaska Native Claims Settlement Act, to select and have conveyed to it 50,000 acres of Federal land in an area north of the former Norton Bay Reservation.

This acreage will replace 50,000 acres deleted from the reservation in 1929 by executive order from the reservation established for the benefit and use of the people whose descendents are today the shareholders of the Native Village Corporation. This bill would also amend ANCSA to permit shareholder common stock to be transferred to adopted-out native children and descendents.

□ 1045

The last provision of the bill would amend the definition of ''settlement trust'' under ANCSA to permit Native Corporations to establish settlement trusts in which potential beneficiaries include shareholders, Natives and the descendants of Natives. Because ANCSA was enacted to benefit all Natives, this amendment is in keeping with that original intent of that legislation.

At the same time, the interests of the Alaska Native Corporation shareholders are protected because this option is available only to those corporations whose shareholders vote, by a majority of all outstanding voting shares, to benefit nonshareholders.

Mr. Speaker, I also wanted to voice the support of the State of Alaska for this bill. The State of Alaska could not submit anything in writing; however, have verbally supported this important bill for the people of Alaska.

The Coastal Coalition, a conservation group in Alaska, and Donald C. Mitchell, a noted ANCSA attorney, have both submitted letters in support of the bill. As my colleagues can see, we have a wide range of support for passage of this bill.

Mr. Speaker, I urge my colleagues to support the passage of this legislation.

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

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

Mr. Speaker, I rise in support of this important legislation. It is long past time to right a wrong done 70 years ago. I am particularly pleased that we in this Congress can act to do that.

I have a longer statement which I would like entered in the RECORD, and I would just reflect in closing that it is always a good day when we can act to undo the wrongs done by a Republican President.

Mr. Speaker, I rise in support of this bill. While Congress generally should be very cautious when amending the 1971 Alaska Native Claims Settlement Act to change land allocations, in the case of Elim Native Corporation there are unique circumstances and special equities which justify this legislation.

Without the knowledge or consent of the Eskimo village of Elim, President Hoover deleted 50,000 acres from the Norton Bay Reservation in 1929. Although the 1971 Alaska Native Claims Settlement Act provided for the conveyance of 300,000 acres to Elim Native Corporation, reflecting the boundaries of the Norton Bay Reservation as it existed at that time, the residents of Elim have long been seeking to have the deleted lands restored.

While the Department of the Interior has maintained that Elim does not have a legal entitlement to the additional 50,000 acres, it is my understanding that they, along with the State of Alaska, are now prepared to support this legislation as a matter of equity.

And there does appear to be substantial equities in this case. According to Don Mitchell, a historian and former counsel to the Alaska Federation of Natives, the deletion of 50,000 acres from the Norton Bay Reservation is ''one of the most grievous cases of social and economic injustice'' in Alaska history.

Because the original reservation lands are no longer available for selection, the bill provides for an alternative conveyance of 50,000 acres which are adjacent to the corporation's existing lands. As amended, the bill incorporates language which has been negotiated with the Department of the Interior and includes important conservation safeguards such as easements for public access, restrictions on commercial timber harvest, and nondevelopment buffers on river corridors.

Mr. Speaker, I would be remiss without recognizing the crucial role of Representative

DON YOUNG in developing this legislation. The villagers of Elim have a strong champion as the Chairman of the Committee on Resources and without his dedication to their cause we would not be here on the House floor today.

I urge that my colleagues support the bill.

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

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

The SPEAKER pro tempore (Mr. HOBSON). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3090, as amended.

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

A motion to reconsider was laid on the table.

AQUATIC RESOURCES RESTORATION IN THE NORTHWEST AND CALIFORNIA

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1444) to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho, as amended.

The Clerk read as follows:

H.R. 1444

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

SECTION 1. AQUATIC RESOURCES RESTORATION IN THE NORTHWEST AND IN CALIFORNIA.

(a) IN GENERAL.—In cooperation with other Federal agencies, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and in consultation with the Bureau of Reclamation, may develop and implement projects for fish screens, fish passage devices, and related features agreed to by non-Federal interests, relevant Federal agencies, and affected States to mitigate adverse impacts to fisheries resulting from the construction and operation of water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California. Priority shall be given to any project that has a total cost of less than $2,500,000.

(b) GOALS.—The goals of the program under subsection (a) shall be—

(1) to decrease the incidence of juvenile and adult fish entering water supply systems; and

(2) to decrease fish mortality associated with the withdrawal of water for irrigation and other purposes without impairing the continued withdrawal of water for that purpose.

(c) PARTICIPATION BY NON-FEDERAL ENTITIES.—Non-Federal participation in the program under subsection (a) shall be voluntary. The Secretary shall take no action that would result in any non-Federal entity being held financially responsible for any action unless the entity applies to participate in the program.

(d) EVALUATION AND PRIORITIZATION OF PROJECTS.—Evaluation and prioritization of projects for development and implementation under this section shall be conducted on the basis of—

(1) assisting entities in their compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) cost effectiveness;

(3) size of diversion;

(4) availability of other funding sources; and

(5) opportunity for biological benefit to be achieved with improved conditions.

(e) REQUIREMENTS.—A fish screen, fish passage device, or related feature shall not be eligible for funding under subsection (a) unless—

(1) it meets the requirements of the United States Fish and Wildlife Service or the National Marine Fisheries Service, as applicable, and any State requirements; and

(2) it is agreed to by all interested Federal and non-Federal entities.

(f) COST SHARING.—

(1) IN GENERAL.—(A) Development and implementation of projects under this section on lands owned by the United States shall be at full Federal expense.

(B) The non-Federal share of the cost of development and implementation of any project under this section on lands that are not owned by the United States shall be 35 percent.

(2) IN-KIND CONTRIBUTIONS.—(A) For any project under this section on lands that are not owned by the United States, the non-Federal participants shall provide any lands, easements, rights-of-way, dredged material disposal areas, and relocations that are necessary for the project.

(B) The value of lands, easements, rights-of-way, dredged material disposal areas, and relocations provided under this paragraph for a project shall be credited toward the non-Federal share of the costs of the project under paragraph (1).

(3) OMRR&R.—(A) The non-Federal interests shall be responsible for all costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects carried out under this section on lands that are not owned by the United States.

(B) Costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects carried out under this section on lands owned by the United States shall be a Federal expense.

(g) CONSULTATION AND USE OF EXISTING DATA AND STUDIES.—In carrying out this section, the Secretary shall consult with other Federal, State, and local agencies and make maximum use of data and studies in existence on the date of enactment of this Act.

(h) LIMITATION ON ELIGIBILITY FOR FUNDING.—No project applicant pursuant to this section may obtain funds under this section if they are also receiving funds from another federally funded program for the same purpose.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2001 through 2005.

(2) LIMITATIONS.—(A) Not more than ⅓ of the total amount of funds appropriated under this section may be used for projects in any single State.

(B) Not more than 6 percent of the amount of funds appropriated under this section for a fiscal year may be used for administration of this section.

(3) INTERIM REPORT.—Upon the expiration of the 3d fiscal year for which amounts are available to carry out this section, the Secretary of the Interior shall report to the Congress describing the accomplishments to date under this section and the projects that will be completed with amounts provided under this section for the 4th and 5th fiscal years for which such amounts are available.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SAXTON) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1444, and to include extraneous material.

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

There was no objection.

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

Mr. Speaker, H.R. 1444, as amended by the Committee on Resources, will authorize the Secretary of Interior, working through the Fish and Wildlife Service and in consultation with the Bureau of Reclamation, to implement projects to construct fish screens, fish passage devices and other related measures to mitigate the effects of water diversions caused by irrigation systems.

The bill was introduced by my good friend, the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Oregon (Mr. WALDEN), both of whom are going to speak and explain the legislation. But I would like to commend them both for the hard work that they have put into this effort. Without them, surely the bill would not be here on the floor today.

Mr. Speaker, State and Federal law currently require the installation of fish screens on many irrigation diversions for agriculture to protect migrating juvenile salmon. While the Federal and State agencies responsible for managing the Columbia River system have worked diligently to install fish screens and fish passage devices, more work is urgently needed.

H.R. 1444 would allow State and Federal agencies to continue installing fish screens and fish passage devices. Furthermore, the Secretary will be required to consult with other Federal, State, and local agencies to make maximum use of data and studies in existence on the date of enactment of this act.

I believe this bill will help protect the salmon resources of the Pacific Northwest while allowing the agriculture industry to continue its operations. This is a noncontroversial bill and I hope everyone will support it.

Mr. Speaker, before I reserve the balance of my time, let me just make note that Marcia Stewart, who is here with us today, legislative assistant to the chief counsel, has done yeoman's work on this bill and has been a great help to all of us over the last several years since she has been with us. She came to us 6 years ago in 1993, and has been extremely successful. As a matter of fact,

the last bill that she staffed for us here on the floor passed 412 to 0. So, Mr. Speaker, we are pleased that she has been with us and such a productive member of our staff and we will certainly miss her.

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

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

Mr. Speaker, this bill does have strong bipartisan support in both the House and the Senate. And shortly, we will hear from the gentleman from Oregon (Mr. WALDEN), my colleague. He and I are the original cosponsors of this legislation in the House.

H.R. 1444 would set up a fish screen construction program for irrigation projects in Idaho, Washington, Montana, Oregon, and California.

This is a bill that is good news for salmon, other fish species which are on the verge of being endangered or threatened, and good news for local economies, for farmers, and good news for the Federal taxpayers.

It requires a local match share of 35 percent. But with the Federal Government investing these funds in the fish screens, ultimately we may avoid the endangerment of numerous species of fish and help promote the recovery of salmon. Today, many of these irrigation diversions are unscreened and salmon smolts do not do too well when they are pulled out of the main stem of the Columbia or one of its tributaries and deposited into an irrigation ditch or an irrigation project which does not return directly to the river or the tributary.

Mr. Speaker, this simple step will prevent that in the future. We should be screening all the diversions on fish-bearing rivers in the Northwest and into California because we are investing hundreds of millions, ultimately billions of dollars elsewhere to help recover these species. But for the lack of a few dollars being spent at each of these diversions on both Federal lands and private lands, many of those dollars are not being spent as effectively as they could.

So, this legislation is a win/win for both the fish and the farmers and the taxpayers, and I recommend it to my colleagues.

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

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Hood River, Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Speaker, it is sure nice to stand here today and recognize that we have built a partnership that will actually get things done, and I want to commend the gentleman from Oregon (Mr. DEFAZIO), my colleague, for his work on this legislation and thank him for his involvement in this.

Mr. Speaker, I rise in support of H.R. 1444, a bill that will help protect the threatened and endangered salmon stocks on the West Coast while assisting the farmers who are voluntarily seeking measures to protect these stocks, albeit at great financial cost.

Under H.R. 1444, the United States Fish and Wildlife Service and the Bureau of Reclamation would be allowed to develop and implement projects for fish screens, fish passage devices, and other facilities in the States of Oregon, Washington, Montana, Idaho and California. These fish screens would prevent juvenile and adult salmon from passing through irrigation diversions and gaining access to ditches and water intake devices.

Mr. Speaker, presently, irrigation districts throughout the West are being mandated to comply with the Endangered Species Act. In order to comply with the ESA and other regulations, irrigation districts are required to construct these sophisticated devices to prevent salmon and other fish from gaining access to their ditches. The construction of these devices come at great expense to the farmers, without any return on their capital costs.

Under H.R. 1444, farmers would be allowed to enter into voluntary agreements with the U.S. Fish and Wildlife Service or the Bureau of Reclamation to share the costs of construction of these fish screen devices. Privately held lands and irrigation districts would have to put up 35 percent of the cost with the government paying the remainder.

The farmers in my district, including those belonging to the Lower Valley Ditch District in Wallowa County and Talent Irrigation District in Jackson County say this is exactly the type of assistance they need to help them be able to protect these salmon and other fish in the rivers and streams.

They are not looking for a way to avoid ESA; they are merely looking for an affordable way to provide the systems to help prevent the loss of fish.

This cost-share program gives our farmers in the West some assistance in building these environmentally friendly fish screening devices, while simultaneously easing the burden of taking affirmative, proactive actions. It is a win/win proposal for the fish and the farmers.

Mr. Speaker, I strongly support passage of H.R. 1444, the DeFazio-Walden fish screen bill.

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

Mr. Speaker, I thank the gentleman from Oregon (Mr. WALDEN) for his assistance in drafting and moving this bill through the House. As he pointed out, the need is great. In fact, numbers I have seen estimate that we could spend more than twice the amount of money allocated for these five states in Oregon alone to take care of this problem. So this is not an ultimate solution, but it is a down payment and something that will help us move along in protecting these fish in the Pacific Northwest and in northern California.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, I thank the gentleman from Oregon (Mr. DEFAZIO) for yielding me this time. He has been on the forefront leading this effort to help the salmon fisheries throughout the entire Pacific Northwest, and for that I am greatly appreciative.

Mr. Speaker, virtually every salmon stock in northern California has been added to the endangered species list. State and Federal regulations have cut fishing effort to an all-time low and this has had a devastating impact on the area that I represent in California, not just for the sport and the commercial fisheries, but for virtually every industry or every community of interest that has to operate in that part of these great United States.

Mr. Speaker, we need to do everything that we possibly can to help bring back the salmon stocks in the Pacific Northwest, and my district is no different. This is one very important step to be able to provide help for screening in regard to water diversions. It is going to help a great deal. It is not only going to help the coastal area that I represent, but the inland area as well.

Mr. Speaker, I would like to commend the gentleman from Oregon (Mr. DEFAZIO) and ask all of my colleagues to vote in support of this measure.

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

Mr. Speaker, I thank the gentleman from California (Mr. THOMPSON). He has been a real force in helping to move this legislation forward, and particularly in making certain that his State and his district are included within the scope of the legislation. Without his perseverance, that would not have happened.

Mr. Speaker, at this time I would like to thank a few staff who helped with the issue. Although this would seem kind of like a no-brainer since it is good for fish, the farmers, the economy and the Federal taxpayers, it was not easy working with the numerous agencies of jurisdiction and potential jurisdiction, and it took a while to wend our way through this maze. So Cynthia Suchman, Ben Grumbles, Bob Faber, Steve Lanich, and Kathie Eastman of my staff were all key with helping move this bill forward.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON) that the House suspend the rules and pass the bill, H.R. 1444, as amended.

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

The title of the bill was amended so as to read: ''A bill to authorize the Secretary of the Interior to plan, design,

and construct fish screens, fish passage devices, and related features to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California.''.

A motion to reconsider was laid on the table.

□ 1100

COMMEMORATING THE ''I HAVE A DREAM'' SPEECH AT THE LINCOLN MEMORIAL

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2879) to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech.

The Clerk read as follows:

H.R. 2879

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

SECTION 1. ADDITION OF PLAQUE AT LINCOLN MEMORIAL COMMEMORATING MARTIN LUTHER KING, JUNIOR'S, I HAVE A DREAM SPEECH.

(a) PLACEMENT OF PLAQUE.—The Secretary of the Interior shall insert on the steps of the Lincoln Memorial in the District of Columbia a suitable plaque to commemorate the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech. The plaque shall be placed at the location on the steps where Martin Luther King, Jr., delivered the speech on August 28, 1963.

(b) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of the Interior may accept contributions to help defray the cost of preparing the plaque and inserting the plaque on the steps of the Lincoln Memorial as required by subsection (a). Amounts received shall be credited to the appropriation supporting the maintenance and operation of the Lincoln Memorial.

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Mr. Speaker, I rise in support of H.R. 2879, introduced by the gentlewoman from Kentucky (Mrs. NORTHUP).

H.R. 2879 would provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech. The plaque would be placed in an appropriate location on the steps of the Lincoln Memorial where Dr. King delivered his famous civil rights speech on August 28, 1963.

This bill also directs the Secretary of the Interior to accept contributions to help offset any costs associated with the preparation and placement of the plaque.

Mr. Speaker, this is an important bill and has bipartisan support. I urge all my colleagues to support H.R. 2879.

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

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

Mr. Speaker, H.R. 2879 directs the Secretary of the Interior to insert on the steps of the Lincoln Memorial a plaque, a plaque that would commemorate the speech of Dr. Martin Luther King, Jr., known as the ''I Have A Dream'' speech.

Several years ago, the gentleman from Georgia (Mr. LEWIS), who was present and was one of the speakers that famous day in 1963 along with Dr. King, was instrumental in a campaign by school children and others in establishing a permanent exhibit at the Lincoln Memorial commemorating the important civil rights events, including the ''I Have A Dream'' speech that occurred at the Memorial.

It is our understanding that H.R. 2879 is noncontroversial and that it is consistent with what has been done previously at the Memorial to commemorate similar events.

I strongly support passage of this legislation and this permanent commemoration of that historic speech in American history.

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

Mr. HANSEN. Mr. Speaker, I am happy to yield such time as she may consume to the gentlewoman from Kentucky (Mrs. NORTHUP), the author of this legislation.

Mrs. NORTHUP. Mr. Speaker, all of us are touched each year as we see how many Americans, particularly school children, come to Washington to, not just view the buildings, but to be inspired by our history and be inspired to become leaders themselves.

They move around this city, they come to this Capitol, they come to our memorials, and they are reminded as they stand in the places that previous leaders have stood, as they understand what role those leaders had in the history of this country.

I had a constituent that came to Washington in 1997, and he wrote me the most moving letter, and I would like to read a couple of paragraphs from that letter.

He said, ''My wife and I walked to the Lincoln Memorial where, at the steps of the Memorial to one of our Nation's greatest Presidents, Martin Luther King delivered the 'I Have A Dream' speech.

''I looked for the spot on which Martin Luther King stood when he spoke. I looked for a marker to remind me and others for a single moment on a hot August day, a descendant of a slave held the most prominent space in our Nation and delivered words that will always stay with that space. I could not find a marker or the words on that step.''

Later in his letter, he said that ''I saw a day when I would bring my yet unborn children to the spot where Martin Luther King spoke, and I could show them that marker and read them the words of his dream. I could tell them that this is still a Nation where a simple Kentucky farmer could rise to the heights of President, and the son of a slave could inspire future generations with the power of his words and his compassion.''

Mr. Speaker, it is hard to imagine that school children and Americans from all over this country could come and walk in this most important spot in this Capital, see where our leaders have changed the course of this country's history, and not have a recognition that, on that spot, on those steps was a place where Dr. Martin Luther King gave his ''I Had A Dream'' speech.

For many of these children, it might be the first time that they ever really would be called to understand what ''that place in history'' meant.

But for those of us that can remember the changes that went on between 1960 and 1965 and the role that Dr. Martin Luther King had in calling us forward to change the laws of this country and the practices that separated us so badly, it is important that all Americans recognize that spot and that leader and the difference that he made in this country.

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

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

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Oregon for yielding me this time. I want to thank the gentleman from Utah (Mr. HANSEN) for bringing this legislation along with the gentleman from Oregon before us.

It is fitting and appropriate that a plaque be placed near the statue of Lincoln near the Lincoln Memorial in honor of the speech ''I Have A Dream'' by Dr. Martin Luther King, Jr. That speech was delivered on August 28, 1963, on a very hot summer day.

On that day, Martin Luther King, Jr., spoke from his soul. He spoke from his heart. He said, ''I have a dream that is deeply rooted in an American dream.'' I was there that day, 23 years old. When Martin Luther King, Jr., stood to speak, he was not just speaking for himself, he was speaking for all Americans, not just for those of us 36 years ago now, but he was speaking for ongoing generations.

So this plaque, ''I Have A Dream'' plaque, would inspire generations yet unborn, inspire young children, would help make us one Nation, one people, one family, the American family, the American community.

It is my hope that all of our colleagues would join in together and support this little piece of legislation, that it would serve as a footnote, but more than a footnote, it would serve as a page in the history of our long struggle toward creating a sense of community, the beloved community.

Mr. Speaker, I again want to thank these two wonderful men for bringing this legislation before us today.

Mrs. NORTHUP. Mr. Speaker, along with my earlier comments on the need for passage

of H.R. 2879, I submit for the RECORD the letter I received from Thomas Williams who came up with the idea for the need of a marker on the Lincoln Memorial to commemorate the ''I have a Dream'' speech of Martin Luther King on August 28, 1963.

Beyond paying respect to Dr. King, this bill offers acknowledgment that our legislative system works as planned. For only in the United States can an idea of an interested individual result in good legislation, and I am hopeful—law. I thank Mr. Williams for his contribution to his country and to the future of our nation.

NOVEMBER 30, 1998.

DEAR REPRESENTATIVE NORTHUP: In October of 1997 my wife and I visited Washington, D.C. The city, with its buildings, statues and monuments, was rich with symbolism. Despite the vastness of the space and the beauty of its design, what struck me most during the trip was a single man sitting on the steps of the Capitol. He sat there in plain view of the police with a sign indicating (if memory serves me) that he had fought in the Viet Nam war but was not now receiving veteran's benefits. The guard there indicated it wasn't true, but what struck me most was the fact that a single citizen could sit peacefully on the steps of the Capitol without being escorted away because he was unworthy of the space he selected to rest. There, literally on the threshold of our nation's most-powerful leaders, he sat. Other nations, I thought, might be embarrassed by the scene. Nevertheless, I somehow felt that I had witnessed—there on the steps—a living testament to our freedom and our greatness.

Later that day, my wife and I walked to the Lincoln Memorial where, at the steps of the memorial to one of our nation's greatest presidents, Martin Luther King delivered the ''I Have A Dream Speech''. I looked for the spot on which Martin Luther King stood when he spoke. I looked for a marker to remind me and others that—for a single moment on a hot August day—a descendent of a slave held the most prominent space in our nation and delivered words that will always stay with that space. I couldn't find a marker or the words on those steps.

Several months later at my home in Louisville, Kentucky, I attended a service at the Cathedral of the Assumption in which the Church celebrated a moment of personal revelation by Thomas Merton, the monk. Forty years earlier, when walking out of the Starks building on what was then 4th and Walnut, he realized in a profound way that we are all one. The Church celebrated the 40th anniversary of that event with a simple Mass and marker. To me, the service and the marker were both reminders that the ordinary space we sometimes occupy can become forever changed by the deeds of a person who stood there. I am confident it was no accident that the Church waited 40 years to commemorate the event.

My visit to Washington and my attendance at the Merton mass sparked a vision and a question in my mind. Wouldn't it be right to celebrate the 40th year of Martin Luther King's ''I Have a Dream'' speech with a ceremony and a marker at the footsteps of the Lincoln Memorial? The anticipation and planning of such an event might lead to collective good. In my mind's eye, I saw a day in which the ''I Have A Dream'' speech would be delivered again for those who have never heard it. I saw a day in which Martin Luther King might be remembered for the inspiration he provided to all of our citizens.

Looking even further into the future, I saw a day when I could bring my yet unborn children to that spot where Martin Luther King spoke and I could show them that marker and read them the words of his dream. I could tell him that this is still a nation where a simple Kentucky farmer could rise to the heights of President and a son of a slave could inspire future generations with the power of his words and his compassion.

My vision and these thoughts I share with you are personal—but far from novel. Perhaps something like this is already in the works and I am simply unaware. In any event, I am writing for some practical suggestions for bringing this vision to a reality.

Sincerely,

TOM WILLIAMS.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2879.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2879 and add any extraneous material that they so desire.

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

There was no objection.

SENSE OF HOUSE REGARDING THE TRAFFICKING OF BABY PARTS

Mr. FOSSELLA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 350) expressing the sense of the House of Representatives with respect to private companies involved in the trafficking of baby body parts for profit.

The Clerk read as follows:

H. RES. 350

Whereas the National Institutes of Health Revitalization Act of 1993 effectively lifted the ban on federally funded research involving the transplantation of baby body parts, and such Act made it a Federal felony for any person to knowingly, for ''valuable consideration,'' purchase or sell baby body parts (with a term of imprisonment of up to 10 years and with fines of up to $250,000 in the case of an individual and $500,000 in the case of an organization);

Whereas private companies have sought to meet the demand by both public and private research facilities by providing baby body parts;

Whereas the definition of ''valuable consideration'' under the National Institutes of Health Revitalization Act of 1993 does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of baby body parts; and

Whereas private companies appear to believe that the definition of ''valuable consideration'' allows them to circumvent Federal law and avoid felony charges with impunity while trafficking in baby body parts for profit: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should exercise oversight responsibilities and conduct hearings, and take appropriate steps if necessary, concerning private companies that are involved in the trafficking of baby body parts for profit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. FOSSELLA) and the gentlewoman from Colorado (Ms. DEGETTE) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. FOSSELLA).

GENERAL LEAVE

Mr. FOSSELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 350 and to insert extraneous material on the resolution.

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

There was no objection.

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

Mr. Speaker, I rise in support of H. Res. 350, a much-needed resolution which would bring greater attention to a sordid trade in the bodies of aborted babies. I salute the gentleman from Colorado (Mr. TANCREDO) for working so diligently to bring this matter to the attention of the House.

I have a copy of a brochure from a company called Opening Lines recently of West Frankfurt, Illinois, which has now moved its base of operations to an undisclosed location. This brochure boasts, ''Our goal is to offer you and your staff the highest quality, most affordable, and freshest tissue, prepared to your specifications, and deliver it in the quantities you need when you need it.''

This company was founded, according to its brochure, ''in order to provide a convenient and efficient way for researchers to receive fetal tissue without a lot of bureaucracy.''

The brochure explains that, ''We have simplified the process for procuring fetal tissue. We do not require a copy of your IRB approval or summary of your research, and you are not required to cite Opening Lines of the source of tissue when you publish your work. We believe in word-of-mouth advertising. If you like our service, you will tell your colleagues.''

Mr. Speaker, Congress has spoken forcefully on the matter of selling aborted baby parts before. There is no question that it is illegal in the United States for any person to buy or sell fetal tissue effecting interstate commerce.

Yet, the documents we have here show very clearly that, if this is true, that anyone can buy whatever part of a dead baby may be decided. According to this brochure, it is $50 for ears, $150 for lungs and hearts, $325 for a spinal column, and a pair of eyes cost $50. But the buyer is offered a 40 percent discount for a single eye. Prices are in effect through December 31, 1999.

Mr. Speaker, companies like Opening Lines and their main competitor, the

so-called Anatomic Gift Foundation, play a significant role in destroying the sanctity of innocent human life and apparently profit from this illicit activity even though it is illegal to buy and sell fetal tissue.

According to Opening Lines, ''Our daily average case volumes exceeds 1,500, and we serve clinics across the United States.''

How are they getting around the law? I think Congress and the American people deserve to know.

Finally, Mr. Speaker, I know a lot of folks in this body, a lot of Members come down and speak so eloquently and passionately when it comes to such things as cruelty to animals, and in many ways they are justified in their eloquence and their beliefs. I would just hope that those same Members come down to this floor and speak as eloquently and passionately when it comes to the destruction and cruelty to innocent human beings.

I ask my colleagues to cast their votes in support of H. Res. 350 and ask that we work together to shed more light on this industry that has been operating in the shadows of darkness.

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

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

Mr. Speaker, I am wondering if my colleague from Colorado (Mr. TANCREDO) would be available to engage in a short colloquy with me.

Mr. Speaker, I just would like to try to clarify the intent behind this resolution before I make my statement. The reason is because, as I read the resolution, it says that it is a Federal crime for any person to knowingly for valuable consideration purchase or sell, quote, ''baby body parts,'' and then it goes on.

When I read this, I went and looked at the Federal statutes. I found no Federal statute which criminalizes specifically selling ''baby body parts.''

I was wondering if the gentleman from Colorado (Mr. TANCREDO) was talking about either some insidious plot to take babies and kill them, and horribly, to sell the body parts; or if the gentleman was referring to the unlawful purchase of human organs as it would apply to minors, or, as I suspect from what the gentleman from New York (Mr. FOSSELLA) said, that the gentleman may be talking about the unlawful sale of organs or fetal tissues is prohibited by statute.

□ 1115

Mr. TANCREDO. Mr. Speaker, will the gentlewoman yield?

Ms. DEGETTE. I yield to the gentleman from Colorado.

Mr. TANCREDO. The answer to the gentlewoman's question is, it is the latter.

Ms. DEGETTE. So it is the intention to talk about the unlawful sale of organs or fetal tissue.

Mr. TANCREDO. That is correct.

Ms. DEGETTE. Reclaiming my time, Mr. Speaker, I thank the gentleman for that clarification.

As I stated in the colloquy, any way we interpret this resolution, the unlawful sale of either children, of children's organs, or of fetal tissue would be illegal under Federal statutes. Murdering children would be illegal under 18 USC Section 1958(a) and, in fact, it would be a capital offense under Federal law. Unlawful purchase of human organs is also unlawful under 42 USC Section 274(e)(a), and, as noted by the gentleman from New York, it is also illegal to profit from the sale of organs or fetal tissues under 42 USC Section 289g-2(a). Those who partake in this illegal activity are subject to fines, 10 years in prison or both. And, obviously, it is a Federal crime to murder anybody, including babies or small children.

The reason I raise this issue in this way is because what we are discussing here today is a serious issue of medical ethics, and I think that it is incumbent upon all of us in Congress to make sure that proper protocols are being followed with respect to research and that no illegal activity is occurring. However, the use of inflammatory and imprecise language in resolutions such as this one does nothing to ensure that these laws are being enforced or that proper controls are in place. In fact, we do not even need to consider a resolution in Congress to request an oversight hearing.

If, indeed, illegal acts are occurring, then the oversight and investigation subcommittee of the Committee on Commerce, of which I am a member and I believe the gentleman from New York is also a member, should investigate these acts and any violation of Federal law should be prosecuted to the fullest extent of the law.

When fetal research was legalized in 1993, in the NIH Revitalization Act, a portion of that legislation established the conditions under which federally-funded fetal tissue research can take place. This law provides that it should be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration. Specifically, it prohibits the purchase of human fetal tissue. It is interesting to note that a GAO report issued in 1997 determined that these requirements were in fact being met and no further complaints have been issued or detected, according to the NIH.

We called the company, Opening Lines, which the gentleman referred to in his opening statement, and we learned that they have closed their offices and could find no other evidence of them. However, as I noted a moment ago, if protocols are not being followed, and if, in fact, fetal tissue is being sold, then Congress should hold hearings, investigate this matter, and the perpetrators should be prosecuted to the fullest extent of the law.

But in establishing protocols and in thwarting illegal acts, we need to be mindful of the benefits that legitimate fetal tissue research has brought. Fetal tissue research has already resulted in significant advances in the treatment of Parkinson's Disease and even in more potential advances for Alzheimer's, diabetes, and many other serious medical conditions. There is a wide range of disorders and diseases that may benefit from fetal tissue transplantation research, including Alzheimer's disease, Huntington's disease, spinal cord injuries, leukemia, Down's syndrome, Tay-Sachs disease, hemophilia, epilepsy, cancer, and perhaps even brain damage caused by an accident or a stroke.

Scientists estimate that fetal tissue transplants could help approximately 1 million Parkinson's disease patients, 2.5 to 3 million people affected with Alzheimer's, 25,000 people suffering from Huntington's disease, 600,000 Type I diabetics, 400,000 stroke victims, and several hundred thousand persons who have suffered a spinal cord injury.

As the co-chair of the Congressional Diabetes Caucus and, more importantly, as the mother of a 5-year-old child who could benefit significantly from appropriate fetal tissue research, I want to ensure, and I know my colleagues want to ensure, that this critical research continues in an ethical manner so that we may find a cure for diabetes, Parkinson's disease, Alzheimer's disease, and these many, many other diseases in the near future.

Again, if there is illegal activity going on, we should fully investigate it. But let us not cloud this issue with hyperbole or inaccurate language. Let us make sure that all of the protocols are being followed and illegal activity is not going on.

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

Mr. FOSSELLA. Mr. Speaker, I yield myself 15 seconds just to respond that if anybody wants to use inflammatory language, that is not our intent, but this, again, is the price list from Opening Lines: A brain is $999, a kidney is $125, eyes at 8 weeks are $50, 40 percent discount for a single eye. That is the issue before us, Mr. Speaker.

Mr. Speaker, I yield 4½ minutes to the gentleman from Colorado (Mr. TANCREDO).

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

Mr. Speaker, if I were to tell my colleagues that human bodies were being dissected and that the parts were being methodically catalogued, preserved and sold for profit, they might well recoil at such a picture. They might think I was referring to the grotesque deeds carried out in Communist China, where buyers can place orders for specific organs from bodies of certain blood types. Prisoners matching the specifications are then slaughtered and their organs harvested and sold. Or perhaps, Mr. Speaker, my colleagues might think I was detailing the actions of Nazis, when they found the market in human hair, skin, and bones to be lucrative, so they turned the concentration camps into profit centers.

It is, indeed, a tragic commentary on our times, Mr. Speaker, that I must tell my colleagues that it is not Communist China nor is it Nazi Germany to which I refer, it is contemporary America. The specific sites are not prisons or concentration camps, they are abortion clinics. Unfortunately, entrepreneurs appear to have found a profitable niche within the abortion industry and have begun to traffic in the body parts of aborted babies.

Now, this practice was outlawed by the passage of the Health Revitalization Act, to which my colleague has referred. However, some unscrupulous individuals have found that by simply calling a charge a fee-for-service, that they could possibly avoid persecution and prosecution and turn a tidy profit on the sale of body parts.

Mr. Speaker, on this poster we can see that the price list advertised by Opening Lines, one of the companies doing business in this area, and by the way it is true that one of their outlets has gone to ground since this all came to light, but there are other companies out there doing the same thing, clearly and unabashedly this sets out the specific price for each part. It is not I who stand here talking about baby body parts and offending the sensibilities of my colleagues; it is, of course, the organizations that are involved with selling them. What else would we call the liver, 8 weeks; the spleen, 8 weeks; the pancreas, 8 weeks; intestines; mesentery; kidney without adrenal or kidney with adrenal? You can get either one. What would my colleagues call that if it is not a baby body parts list?

This issue is not about fetal research. I knew that was going to be the issue my colleague and others would like to sort of cloud this thing with, fetal tissue research, the many benefits that may accrue from that. Anyone can stand up and say this resolution is about increasing the possibility for nuclear war. Anyone can say anything they want. The fact is, it is very clear it is a resolution simply calling for an investigation. If there are no problems, if in fact everybody is operating within the law, as my colleague suggests and hopes, then there is nothing to fear from investigation, and that is all this asks for. It is not legislation correcting or changing anything, but there is certainly evidence that something out there is wrong. Something is amiss. It is not going according to the way people who wrote the 1993 law wanted it to go.

This organization was even more exuberant in their advertising when they said, ''Our goal is to offer you and your staff the highest quality, most affordable, freshest tissue prepared to your specifications, delivered in the quantities you need and when you need it.'' Now, this is not my stuff, this is not something I am making up, this is from their brochure.

It is important at this point to cite the specific language of the Health Revitalization Act which says it is a Federal felony for any person to knowingly, for valuable consideration, purchase or sell human body parts, or fetal tissue, however one wants to put it. When I looked at this, it was body parts.

Mr. Speaker, how much more clearly could we have said it when we wrote the law? We evidently need to do more to get the point across that the trafficking in human body parts is disgusting, dangerous, and completely unacceptable in a society which presumes to call itself civilized. I, therefore, have introduced this resolution, which calls upon the Congress to hold hearings to determine the extent to which this practice is going on and, if necessary, if necessary and only if necessary, to take appropriate steps to end it.

Now, the last thing is this GAO report to which my colleague referred. The GAO study actually did come back and say it was not happening; it was not happening in three places, the Colorado Health Sciences Center, Mount Sinai, and the University of South Florida. And they were only looking at one specific aspect of this, they were not looking at private companies, they were not looking at pharmaceutical companies. So it is disingenuous, at least, to say this study sort of exonerates the industry. It was a very narrow study and in those three places it was not happening. In a lot of other places it is.

Ms. DEGETTE. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H. Res. 350. When I heard from my staff last night that a resolution addressing illegal sale of fetal tissue would be offered on the floor today, my immediate reaction was if any illegality was taking place, it ought to be investigated immediately. Then I read the text of H.R. 350, with its use of terms like ''trafficking'' and ''baby body parts'', and I tried to call the company accused of wrongdoing, using the phone number listed in a Dear Colleague, and the number was not in service.

My colleagues, these are serious allegations and we ought to react to them responsibly. If there are legitimate complaints or evidence of illegality, Congress has the power to act. But instead of taking time on this floor, we could be working in committee conducting oversight of the National Institutes of Health, which is charged with protecting the integrity of federally funded research.

As the gentlewoman from Colorado (Ms. DEGETTE), said, in 1997, as required by statute, the General Accounting Office investigated compliance with the detailed Federal regulations governing this research and the GAO found no evidence of wrongdoing or abuse. I would like to repeat that. The GAO found no evidence of wrongdoing or abuse.

And yesterday, the NIH confirmed the GAO conclusion, again stating that no complaints regarding fetal tissue research have been investigated by the National Institutes of Health's Office for Protection from Research Risks, and no compliance cases or institutional reports have been filed with the NIH since the GAO reported to Congress in March 1997. And the National Institutes of Health, my colleagues, has no record of any Member of Congress to date requesting a review or presenting any evidence of wrongdoing, despite the fact that the NIH is the agency charged with oversight of federally funded research. No Member of Congress has called the NIH or requested in writing any investigation.

Research involving fetal tissue is an integral part of the pioneering field of stem cell research which may offer millions of Americans, as the gentlewoman from Colorado (Ms. DEGETTE) has said, suffering with diseases the opportunity to be cured. We should do everything we can to assure that this research proceeds in an ethical and cautious manner.

□ 1130

Allegations of wrongdoing, if substantiated, should be investigated, not, my colleagues, brought to the floor of the House to inflame. This resolution is not needed in order for oversight hearings to be held.

So why are we debating this on the House floor? Let us put aside the inflammatory words and work together with the NIH to get the facts. That is why I urge my colleagues to reject H. Res. 350.

Mr. FOSSELLA. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. COBURN).

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

Mr. Speaker, there is a lot of truth to what the gentlewoman from New York said. However, there is an absence of appropriate timing with that. There is no question we are going to have an oversight hearing on this. There is no question we are going to do it. There is no question that they are violating the law and the intent and purposes of the law. We are going to do that.

But this needs to be inflamed, I say to the gentlewoman from New York (Mrs. LOWEY), because this is exactly the slippery slope we said we would be going down.

Let me tell my colleagues what this process is creating. If I am in there to rent some space from their abortion clinic and I tell them that can I sell a brain for a thousand dollars, do my colleagues know what I am going to do if I am an abortionist? I am going to do an abortion now that is most important in saving the brain rather than in caring for that woman who is having a pregnancy terminated. Because money then becomes the driving object in my abortion, not in the care of the woman who has made a difficult decision and is giving up a life.

So now what we have had is we violate this law and the intent of it, although technically they may not be, but in fact their intent is to, we are inducing through the profit motive abortionists to put the life of their patient at risk for monetary gain, a fetal brain for a thousand bucks.

How abhorrent can we be? Why should we not be inflamed? Why should we not be agitated? Why should we not be angry, in fact, when this process is going on exactly in contraindication to what we said in the law? We should inflame this. Everyone in America should know that the value of life has just gotten less, not the value of the fetus, the value of the very woman undergoing abortion. Because now her life is going to be put at risk because somebody is going to try to capture a brain intact regardless if that is the best and safest indication for that woman.

So we do need to send the letters, and we are going to, from the Subcommittee on Health, I assure my colleagues. We are going to have an oversight. And we should as a body say, this is not right. This should stop. There are all sorts of unintended consequences occurring because this procedure is ongoing.

The reason the phone is disconnected is just like the phones were disconnected a month ago at another one of them, because when everybody finds out, they shut down and move somewhere else simply because they know it is not right, not right ethically, not right morally, and not right legally. So I am inflamed about it. I am upset about it. Because the purpose of the law, what their intent is, is to go completely around that.

I assure my colleagues that the Subcommittee on Health and the Oversight and Investigation Committee of the Subcommittee on Health of the Committee on Commerce is going to look at every aspect of this. And we already know what the answers are. We have had good undercover investigative reporting that has shown us the answers. But we are going to allow the people to give us the opportunity to do that.

I hope, in our heart of hearts, that as we protect abortion in this country, the first thing we do is protect the women undergoing the abortion.

Mrs. LOWEY. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just clarify my position since the gentleman from Oklahoma (Mr. COBURN) was directing his comments to me. I certainly respect his views on any issue. But my position was that I would respectfully suggest that the order in this House of Representatives is to have a hearing, to do an investigation, and not come to conclusions with the purpose of inflaming on the floor. I am delighted that they are going to have an investigation.

Mr. COBURN. Mr. Speaker, reclaiming my time, the purpose of the resolution is to raise the awareness of how foul, how dirty, how nasty, how abhorrent this is.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2½ minutes to my colleague, the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise to oppose this resolution. The proponents of this resolution are attempting to corrupt medical research with the politics of abortion. They are attempting to stall proper research to save lives to gain political advantage. I am not surprised, but I am disappointed.

The resolution is totally misleading, and that may in fact be its real purpose. Sale of body parts for profit, the resolution talks about. No one is going out selling body parts, arms, or legs for any purpose.

Researchers do use stem cells and tissue samples from the earlier stages of fetal development to promote research for the treatment of Alzheimer's disease and Parkinson's disease and diabetes and other serious medical conditions. This is potentially life-saving research that can save thousands and thousands of lives. It is intended to alleviate pain and suffering and to save lives.

But we do in the talk about that, we talk about selling body parts, which does not happen. We talk about having abortions to generate body parts, which does not happen. And again, I agree with the gentlewoman from New York (Mrs. LOWEY). This is backwards.

If the gentleman from Oklahoma (Mr. COBURN) thinks that some foul stuff, as he put it, is going on, that some foul deeds are being committed, have an oversight hearing, look into it, find out the facts first. Do not declare the facts first and then investigate. We do that too often in this House these days, and this is a prime example of it.

I do not think those foul things are happening. I think it is a concoction; I think it is propaganda to inflame debate to stop medical research into life-saving techniques.

But if they are happening, let us find out; let us have a hearing. They will have a hearing. The gentleman says so. Fine. So why this resolution? This resolution is total demagoguery and ought to be rejected for the demagoguery it is. Let us have the hearings and find out the facts and then see what we ought to do, if anything.

Facts first. Action later. Demagoguery not at all.

Mr. FOSSELLA. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise today to speak in support of this resolution which says very simply that the House should hold hearings on the commercial trafficking in baby body parts.

Here is the issue in a nutshell. Based on reliable reports, abortion clinics are selling parts of babies, and the older the better, to middlemen. Those middlemen, in turn, sell them to researchers. This means more money for the abortion clinic. Instead of the problem of disposing of dead bodies, now abortion clinics have a lucrative means of getting rid of the ''unintended babies.'' This means money for the middlemen.

Just look at this price list that is duplicated, blown up from an article obtained from a national business which traffics in unborn baby body parts. Up here we see a liver, $150. But they can get it for $125 if it is from a younger baby, or they can get a 30 percent discount if it is ''significantly fragmented.'' A spleen is $75. Pancreas, $100. This is their document. A thymus, $100.

Look at this. A brain, $999. Notice they even use marketing techniques in this gruesome big business, selling it for one dollar less than a thousand dollars to make it, I guess, a more attractive purchase. And again, if it is fragmented, and what a terrible way to describe a baby's injured brain from an abortion, they can get a 30 percent discount. Almost like, step right up, ladies and gentlemen, do you want a baby's ear? Seventy-five dollars, $50 if a baby is less than 8 weeks old. How about eyes? A pair of eyes $75; $40 for one eye. Skin, a baby in a second trimester, $100. Spinal cord, $325.

Mr. Speaker, I wish this gruesome price list were a cruel Halloween hoax, but it is not. It is the price list for human body parts from aborted babies.

It is almost like the bureaucratization of the Nazi's final solution hammered out in conferences and committed to legal documents, except now it is in the form of capitalistic price lists organized for commerce, sanitized for the grim reality which it is.

Mr. Speaker, I would like to draw attention to the job of one young woman. Let us call her Kelly. Kelly's job at the abortion clinic was one of retrieving body parts from dead bodies for abortion and shipping them for profit to researchers who requested them. Here is her testimony. Kelly said: ''We had a contract with an abortion clinic that would allow us to go there on certain days. We would have a generated list of tissue that organizations were looking for. Then we would examine the patient charts.

''We only wanted the most perfect specimens that we could give. We were looking for eyes, livers, brains, thymuses, cardiac blood, cord, blood from liver, even blood from the limbs.''

Kelly quit her job one day when an abortion doctor came in and brought in two babies, two 5½-month-old twins still moving. She could not take it anymore.

It is time the Congress begin oversight hearings on this death-dealing business. We need to begin tracing this money trail. The bill before us today

does nothing more than call for hearings. It does not call for the elimination of trafficking. It does not require women to sign a consent form before their babies are sold for parts. It does not even prohibit Planned Parenthood or commercial middlemen from profiting. All it does is call for hearings. Surely, no one could reasonably oppose a hearing.

Let me anticipate one line of protest. Some will say that medical progress requires that we turn tragedy into a blessing for the living. Well, they are right. We must do all we reasonably can to erase human suffering. But the key is responsibility. We have a responsibility to the sick, the disabled, the children, the elderly.

Who among us does not have a loved one who suffers from some disease or ailment? But do not be fooled between false choices between medical research and no medical research. We have other options other than buying and selling dead children's body parts.

I urge Members to support this resolution.

And that's the issue we focus on today—not research—but the buying and selling of baby body parts for profit, for financial remuneration.

We can, we must, and we will do more to ease human suffering. But not at the ghastly price paid in dissecting babies, pricing their body parts, and distributing marketing lists.

The Nazis killed their unwanted children under the guise of the ''Realm's Committee for Scientific Approach to Severe Illness Due to Heredity and Constitution.'' Transportation of the patients to killing centers was carried out by ''The Charitable Transport Company for the Sick.''

We should not join the Nazi's rationalization of unbounded research on the powerless to build a master race. No, we must not.

Mr. Speaker, I urge my colleagues to support this common sense non-binding legislation to call for congressional hearings on this issue.

Ms. DEGETTE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, certainly no one in this chamber would ever advocate the improper sale of ''baby body parts'' or of ''fetal tissue.'' This is a very sensitive issue of medical ethics which is important for us to ensure is always being adhered to in the strictest way.

This issue, if there is an issue, even though no one has documented it, if there is an issue of improper sale of fetal tissue or of children or anything of that nature, the sponsor of the bill, the floor manager, the chairman of the Committee on Commerce, any Member of this House could have requested NIH to investigate those allegations pursuant to the statute. That has never been done to date.

They could have brought this issue up during the NIH authorization hearings, which the Committee on Commerce has jurisdiction over. That has not been done. They could have requested an oversight investigations hearing into these very deeply troubling allegations. That has not been done.

After looking at what has not been done, it becomes clear that this practice of bringing this issue to the House floor to demagogue it is improper. We should go through the committee process and decide whether, in fact, these practices are occurring. And if they are, we should stop them immediately.

No one would favor the sale improperly of fetal tissue or any other kind of tissue. But let us call this what it is. If there is an issue, let us have a hearing, let us investigate it, let us prosecute anybody who is breaking the law.

That is what we should be doing, not standing here in November as the session is winding down and raising it on the floor for the first time.

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

□ 1145

Mr. FOSSELLA. Mr. Speaker, I yield myself 15 seconds. Again, as I stated at the outset, there are so many Members who rightfully and legitimately in their mind come to the floor to speak so passionately about saving the dolphins and saving the tigers and saving the whales. That may all be legitimate. I would just hope that they would feel the same way when it comes to the saving and sanctity of innocent human beings.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. SMITH).

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from New Jersey is recognized for 3¾ minutes.

(Mr. SMITH of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of H. Res. 350 and urge swift and extensive oversight into the question of trafficking in the bodies of unborn babies killed by abortion. Mr. Speaker, the House has not addressed this issue since 1993, when the NIH Revitalization Act was passed by this body. At that time, many of us were deeply concerned, and expressed it on this floor, that research using the shattered bodies of aborted babies could quickly lead to a greater number of abortions, particularly if the demand for their body parts grew among researchers. Those concerns appear to have been well founded.

I want to thank the gentleman from Colorado (Mr. TANCREDO) for offering this resolution and, as he pointed out earlier, it was a pro-life organization in Texas that compiled numerous documents about the horrific business of trafficking in baby body parts. The companies involved provide price lists for the individual parts. Let me read just some of those that are listed:

Liver, $150, but a 30 percent discount if significantly fragmented. Pancreas, under 8 weeks, $100. Ears, under 8 weeks, $75. Brain, under 8 weeks, $999, 30 percent discount if significantly fragmented. Intact trunk, with or without limbs, $500. Spinal column, $150. Skin, $100.

Mr. Speaker, this is almost too grotesque to imagine. Yet this is a real business and these are real babies, innocent children who have been deprived of their lives.

It is routine, Mr. Speaker, for pregnant women who are planning to abort their babies to be told that their children are nothing more than collections of cells or blobs of tissue. Yet these lists clearly give lie to that myth. Babies younger than 8 weeks have, as they point out on their price list, identifiable brains, livers, spleens, ears, and eyes, and they, as well as older babies, are being taken apart piece by piece, limb by limb, even skinned. Worst of all, there are profiteers waiting in the wings to make money from this tragedy by collecting and selling the pieces.

Among the questions that Congress must investigate, Mr. Speaker, is whether these private businesses are operating inside or outside the scope even of our current infirm law, and whether Federal law has the gaping loopholes that we suggested back in 1993 which allow these companies to claim significant payments for body parts as, quote, reasonable compensation for obtaining them.

We may also have to look at the clinics' financial interest, particularly where federally funded research is involved. When taxpayer funding of research using baby body parts was being defended 6 or more years ago, one thing that was said repeatedly was that these babies are already dead. The truth is, however, that they are not dead when a woman is asked to donate, and it may not even be true that the woman has decided to abort when she is presented with the prospect of handing over her baby's body parts for research purposes. And as we pointed out then, that may, among other factors, help tip the scale.

Mr. Speaker, many women are ambivalent about abortion, and the studies show that many are undecided even as they walk into the clinic doors. They hope to get objective counseling about their options, but abortion clinic employees, as we have known, are far from objective. Currently there is nothing in Federal law or regulations, and almost certainly nothing in the private sector, to prevent a so-called counselor from telling a woman who is undecided about abortion that if she decides to abort, some good can result if she donates her dead baby to research.

Mr. Speaker, as the gentleman from Colorado has pointed out to all of us, and again I want to salute him for bringing this to our attention, a woman who used to work for these middlemen has come forward to talk about their business arrangements with abortion clinics.

She has recounted that the abortion clinic would give her information on the women in the waiting room so that she could pick out the best candidates to fill their requests for organs and tissues, based on the women's medical history and stage or pregnancy. How far-

fetched is it to imagine that these women in particular were approached to get permission to dissect their babies bodies? The so-called safeguards in current law for federally funded research are inadequate in this area and need to be re-examined.

Mr. Speaker, the prospect of economic gain causes can poison even those practices established with the most benevolent intentions. Just yesterday there was a news story about concerns that have been raised over trafficking in human organs internationally for profit. A university professor who founded a group, Organs Watch, to investigate this, said "In the organs trade business, abuses creep in before you know it." The same abuses should be expected in the baby parts business.

I would be astounded if any Member of this body objected to this resolution. If the laws we have, and the enforcement of them, are so great, then hearings will bring that out. But if they are inadequate or are being ignored, then Congress should be made aware of that as well.

Mr. Speaker, the barest minimum that we can do is to have a full scale investigation into this and go wherever the leads may take us to try to stop this heinous practice.

I urge my colleagues to join me in voting "yes" on this important resolution. Let's let some light shine on this grisly business.

Mr. WAXMAN. Mr. Speaker, it's hard to escape the conclusion that this resolution—by its very name—is designed to attack and cast doubt on fetal tissue research.

First, let's be clear. The law that authorizes fetal tissue research, The NIH Revitalization Act of 1993, which I helped author, contains strong protections against the abuses alleged in this resolution. While we should be concerned if these protections are violated, this inflammatory resolution clearly means to whip up opposition to all fetal tissue research by substituting sound bites for facts. The facts are that fetal tissue research is subject to Federal, State and even local regulation. It is subject to informed consent. It is subject to audit by the Secretary of Health and Human Services. Violations of Federal protections are subject to criminal penalties.

Congress and the American public have already decided that fetal tissue research is both legal and ethical. It is crucial to women's health and reproductive research. It is enormously promising for Parkinson's disease, multiple sclerosis, Alzheimer's disease, Tay-Sachs disease and juvenile diabetes. It could help cure victims of stroke and brain cancer. We should always do appropriate oversight. But a resolution that talks about "baby body parts" is not the way to do it. This resolution uses rhetoric to conceal its attack on the hopes of Americans with Alzheimer's and MS. It resorts to linguistic tricks to mask its impact on American mothers seeking cures to genetic birth defects—mothers who could have healthier babies as a result of fetal tissue research.

I am very disappointed in the House. In the waning days of this Congress, we should be enacting the Patients Bill of Rights. We should be working on the Medicare drug benefit. But instead, once again, the House Republican leadership is kow-towing to its pro-life right-wing with misleading and sensationalist rhetoric.

I urge my colleagues to oppose the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. FOSSELLA) that the House suspend the rules and agree to the resolution, House Resolution 350.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2280, VETERANS BENEFITS IMPROVEMENT ACT OF 1999, WITH AMENDMENTS

Mr. STUMP. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 368) providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 2280.

The Clerk read as follows:

H. RES. 368

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 2280, with the Senate amendment thereto, and to have concurred in the Senate amendment with the following amendments:

(1) Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.".

(2) In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1999".

(b) REFERENCES TO TITLE 38, UNITED STATES 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 title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) INCREASE IN RATES.—Section 1114 is amended—

(1) by striking "$95" in subsection (a) and inserting "$98";

(2) by striking "$182" in subsection (b) and inserting "$188";

(3) by striking "$279" in subsection (c) and inserting "$288";

(4) by striking "$399" in subsection (d) and inserting "$413";

(5) by striking "$569" in subsection (e) and inserting "$589";

(6) by striking "$717" in subsection (f) and inserting "$743";

(7) by striking "$905" in subsection (g) and inserting "$937";

(8) by striking "$1,049" in subsection (h) and inserting "$1,087";

(9) by striking "$1,181" in subsection (i) and inserting "$1,224";

(10) by striking "$1,964" in subsection (j) and inserting "$2,036";

(11) in subsection (k)—

(A) by striking "$75" both places it appears and inserting "$76"; and

(B) by striking "$2,443" and "$3,426" and inserting "$2,533" and "$3,553", respectively;

(12) by striking "$2,443" in subsection (l) and inserting "$2,533";

(13) by striking "$2,694" in subsection (m) and inserting "$2,794";

(14) by striking "$3,066" in subsection (n) and inserting "$3,179";

(15) by striking "$3,426" each place it appears in subsections (o) and (p) and inserting "$3,553";

(16) by striking "$1,471" and "$2,190" in subsection (r) and inserting "$1,525" and "$2,271", respectively; and

(17) by striking "$2,199" in subsection (s) and inserting "$2,280".

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may authorize administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking "$114" in clause (A) and inserting "$117";

(2) by striking "$195" and "$60" in clause (B) and inserting "$201" and "$61", respectively;

(3) by striking "$78" and "$60" in clause (C) and inserting "$80" and "$61", respectively;

(4) by striking "$92" in clause (D) and inserting "$95";

(5) by striking "$215" in clause (E) and inserting "$222"; and

(6) by striking "$180" in clause (F) and inserting "$186".

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking "$528" and inserting "$546".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

(a) NEW LAW RATES.—Section 1311(a) is amended—

(1) by striking "$850" in paragraph (1) and inserting "$881"; and

(2) by striking "$185" in paragraph (2) and inserting "$191".

(b) OLD LAW RATES.—The table in section 1311(a)(3) is amended to read as follows:

"Pay grade rate	Monthly
E–1	$881
E–2	881
E–3	881
E–4	881
E–5	881
E–6	881
E–7	911
E–8	962
E–9	[1]1,003
W–1	930
W–2	968
W–3	997
W–4	1,054
O–1	930
O–2	962
O–3	1,028
O–4	1,087
O–5	1,198
O–6	1,349
O–7	1,458
O–8	1,598
O–9	1,712

O–10 ..... [2]71,878

''[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,082.

''[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,013.''.

(c) ADDITIONAL DIC FOR CHILDREN.—Section 1311(b) is amended by striking ''$215'' and inserting ''$222''.

(d) AID AND ATTENDANCE ALLOWANCE.—Section 1311(c) is amended by striking ''$215'' and inserting ''$222''.

(e) HOUSEBOUND RATE.—Section 1311(d) is amended by striking ''$104'' and inserting ''$107''.

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking ''$361'' in paragraph (1) and inserting ''$373'';

(2) by striking ''$520'' in paragraph (2) and inserting ''$538'';

(3) by striking ''$675'' in paragraph (3) and inserting ''$699''; and

(4) by striking ''$675'' and ''$132'' in paragraph (4) and inserting ''$699'' and ''$136'', respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking ''$215'' in subsection (a) and inserting ''$222'';

(2) by striking ''$361'' in subsection (b) and inserting ''$373''; and

(3) by striking ''$182'' in subsection (c) and inserting ''$188''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this measure.

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

There was no objection.

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

(Mr. STUMP asked and was given permission to revise and extend his remarks.)

Mr. STUMP. Mr. Speaker, this is a clean bill providing a cost-of-living adjustment to disabled veterans and surviving spouses. The other provisions in the House-passed bill are part of an ongoing conference between the House and the Senate and we hope to have a report on that by tomorrow.

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

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

Mr. Speaker, I salute the gentleman from Arizona (Mr. STUMP), the chairman of the committee, for his efforts to ensure a timely and accurate cost-of-living adjustment of 2.4 percent which will be provided to our Nation's service-connected disabled veterans and their dependents and survivors who are in receipt of compensation and DIC benefits. This increase in benefits will be reflected in payments beginning January, 2000. Mr. Speaker, this measure deserves the support of every Member of the House. I urge my colleagues to support the bill.

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

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

I want to thank the ranking member of the Committee on Veterans' Affairs for all his work on this provision as well as the gentleman from New York (Mr. QUINN), the chairman of the subcommittee, and the gentleman from California (Mr. FILNER), the ranking member, and urge all Members to support this COLA, cost-of-living increase, for our veterans.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Arizona for his hard work on this issue and obviously for recognition of all veterans. We are getting ready certainly to celebrate Veterans Day this year. I think it is incumbent upon us when we are considering the needs of the United States of America, we prioritize those that have fought valiantly for the freedoms that we all enjoy.

It is one of the unique things, having come to Congress and being able to speak on the floor and advocate for constituents from the 16th District, to realize many of those fundamental opportunities have been given to us because of the fight the veterans made in previous conflicts. I think it is incumbent especially as well to recognize that years and years ago I remember the veterans were told that they would have to wait for their cost-of-living, we have to make budgetary matters first and we have got to balance the books and do all these other things.

I think the gentleman from Arizona prioritizes the fact that veterans should not be treated any differently than any other citizen, that if there are cost-of-living benefits going to employees of the Federal Government, to Social Security recipients, that they should also be included for those disabled, those veterans and other groups.

I want to strongly urge obviously my colleagues' consideration of this measure but also once again to underscore the fact that very few of us would be able to speak freely in this Chamber had it not been for the valiant effort of men and women who have sacrificed, men and women who have gone to theaters around the globe to protect freedom here and abroad.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his remarks.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and agree to the resolution, House Resolution 368.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REAUTHORIZING THE PRINTING OF CERTAIN PUBLICATIONS

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 221) authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution.

The Clerk read as follows:

H. CON. RES. 221

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. PRINTING OF DOCUMENTS.

(a) IN GENERAL.—Each of the documents referred to in section 2 shall be printed as a House document, in a style and manner determined by the Joint Committee on Printing.

(b) ADDITIONAL COPIES FOR HOUSE AND SENATE.—There shall be printed for the use of the House of Representatives and the Senate an aggregate number of copies of the documents printed under subsection (a) not to exceed the lesser of—

(1) 2,200,000; or

(2) the maximum number of copies for which the aggregate printing cost does not exceed an amount established by the Joint Committee on Printing.

SEC. 2. DOCUMENTS DESCRIBED.

The documents referred to in this section are as follows:

(1) The 1999 revised edition of the brochure entitled ''How Our Laws Are Made''.

(2) The 1999 revised edition of the brochure entitled ''Our American Government''.

(3) The 20th edition of the pocket version of the United States Constitution.

(4) The 1999 edition of the document-sized, annotated version of the United States Constitution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MICA).

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

Mr. Speaker, today I come before the House to present this House Concurrent Resolution 221, which authorizes the printing of brochures entitled ''How Our Laws Are Made'' and ''Our American Government,'' the pocket version of the United States Constitution, and the document-sized annotated version of the United States Constitution.

Very often when I come to the floor, I always like to cite what I consider the most important document that rules the governance of our country and really sets forth the pattern of organization for the Congress. Our Constitution details those responsibilities under that great document, and it is important that our Committee on House Administration as one of its responsibilities in administering the House of Representatives makes certain that these publications be made available.

Each time we have young people visit the United States Capitol, I try to make pocket editions available to them so that they have a better understanding of how our government operates, what their responsibilities are under that great document as a citizen, and also how our government works. Most young people today do not have an awareness of the Constitution and basically how our government functions. That is unfortunate. Sometimes it is the failure of education. Not only do our schools and parents and communities have a responsibility but we as a Congress have that responsibility. And also it is important that the Committee on House Administration, charged with running the House of Representatives, insures that these important documents are published.

The last time two of these documents were printed was during the 102nd Congress. The other two were printed during the 105th Congress. The pamphlet-sized publication of the Constitution has a revision to the foreword by the gentleman from Illinois (Mr. HYDE), our distinguished chairman of the Committee on the Judiciary. The Parliamentarian has also provided revisions to ''How Our Laws Are Made,'' and the Congressional Research Service has provided revision to the document ''Our American Government.''

I would also notify Members of the House, Mr. Speaker, that each Member and Senator will receive 1,000 copies of each of these publications and an opportunity to acquire additional copies. They will be made available at an additional cost to the Members, and can be distributed to their constituents.

These are important documents. It is an important responsibility of the House of Representatives to make certain again that our young people and our citizens have the basic tools and documents of government available to them, somewhat of a mundane responsibility but an important one that we are taking that up. I am pleased to take up this responsibility today on behalf of the gentleman from California (Mr. THOMAS), who chairs the Committee on House Administration.

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

□ 1200

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

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise in support of this resolution which, as the gentleman from Florida has so aptly pointed out, provides for authority to reprint four documents of particular interest. Those of us who have been around the Congress for most of our adult lives, either as students working here, as interns, or as Members and anything in between, know that although this seems like a mundane responsibility, authorizing the reprinting of four documents and the provision of copies to Members and to the public is a profound action.

It is profound because these documents are so profound. These documents have had a tremendous impact on not only the citizens of the United States, but, I would suggest, a great impact on all the world. I remember, as I am sure the gentleman from Florida remembers, when Vaclav Havel, the President of the Czech Republic, stood at the rostrum in front of the Speaker, and spoke about the emergence of Czechoslovakia from behind the Iron Curtain into freedom, both politically and economically, and democratically. He observed that two of the documents, the Declaration of Independence and the Constitution, impelled the movement in Czechoslovakia from behind the Iron Curtain. Havel spoke dramatically about human rights, political rights, civil rights, and economic rights.

It is critically important that every American student, every American adult be familiar with the source documents of our Nation which articulate our principles and outline how we accomplish democracy, how we debate and resolve differences of opinion, how we, as minority leader often observes, substitute debate on this floor for bullets on a battlefield.

Debate is, in fact, the substitute for violence; it is the way we in America have, since the Civil War resolved our differences without bloodshed. It is a lesson for all the world, but particularly a lesson for our own people. The reprinting of these documents will provide a ready supply for Members to distribute and for the public to access.

So I join the gentleman from Florida (Mr. MICA) in supporting this very important resolution. I support him in his observations with reference to having available not only the pocket Constitution, but the annotated Constitution as well for the public and for Members so that we better understand the genius of our Founding Fathers and the contribution that American democracy makes to all the world.

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

Mr. MICA. Mr. Speaker, I yield myself the balance of the time.

I am pleased to join with the gentleman from Maryland (Mr. HOYER), who is the ranking member on the Committee on House Administration to support this resolution, a simple task for the Congress this afternoon to print copies of the Constitution and some other documents and to be made available to the public and Members.

In closing, I heard the gentleman from Maryland comment about Vaclav Havel and his presentation before the Congress. I was a Member of Congress at the time, but I sat as a guest in the House gallery; and I will never forget that infamous commentary by Mr. Havel who said just days ago he had been incarcerated in a prison and now he was addressing Congress. That event was particularly meaningful to me because my grandfather came from Slovakia which was part of the Czechoslovak Republic in 1989 when thousands and thousands of people took to the street in the beginning of the Velvet Revolution, and as we pass this small housekeeping resolution here to make these copies of our precious democratic documents available, we remember and commemorate today the fall of the Berlin Wall and basically the fall of Communism.

It is through the documents that we are authorizing the publication of today that we have extended to the world our framework of government. These documents have been the cornerstone for providing a guide post for these people who have brought their nations out of the ages and decades and decades of darkness.

Last night I had the opportunity to attend a dinner with the Czech and Slovak prime ministers and their ambassadors here as they celebrated. They had met with the President and other officials celebrating the 10th anniversary of their having gained freedom. Again, those documents that we provided offered encouragement. Programs that the United States promotes such as this help extend democracy, promotes freedom and opportunities, and provide the framework of government outlined by the Constitution to others. Today we see those results and it does give us a great sense of satisfaction.

It gives me, in closing, a great sense of satisfaction to work in a bipartisan manner with the gentleman from Maryland and our chairman, the gentleman from California (Mr. THOMAS), in asking the House of Representatives to pass this concurrent resolution of the House, House Concurrent Resolution 221 at this time.

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

The SPEAKER pro tempore (Mr. HOBSON). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to House concurrent resolution, H. Con. Res. 221.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1714, ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 366 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 366

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute printed in the Congressional Record and numbered 1. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Dayton, Ohio (Mr. HALL), my very good friend; and pending that I yield myself such time as I may consume. All time that I will be yielding will be for debate purposes only.

Mr. Speaker, this rule provides for the consideration of a bill, H.R. 1714, that is critically important to consumers in our 21st century information-age economy. It is also appropriate that we consider this legislation on the heels of last week's passage of S. 900, the Financial Services Modernization Act.

As significant as S. 900 is to bringing our financial services laws up to date with the realities of the current marketplace, H.R. 1714 will actually do more to empower consumers of financial products and other goods and services and establish the framework for competition in the emerging electronic marketplace. For this I applaud the efforts of the gentleman from Virginia (Mr. BLILEY) to move this legislation forward.

This is a structured rule providing for 1 hour of general debate, divided equally between the chairman and ranking minority member of the Committee on Commerce. The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD and numbered 1. That amendment in the nature of a substitute is identical to the bill which on November 1 fell just three votes short of the two-thirds majority necessary for passage of a measure under suspension of the rules.

The rule provides for consideration of only the two amendments printed in the rules report, as the Clerk just gave us, which may be offered only in the order printed in the RECORD, may be offered only by the designated Member, shall be considered as read, shall not be divisible, and shall be debated for 30 minutes, equally divided and controlled by a proponent and an opponent.

The first amendment is the bipartisan Inslee-Eshoo-Smith–Dooley-Moran-Roukema amendment, which I urge my colleagues to support. It preserves all Federal and State consumer protection laws and actually creates new consumer rights in the area of electronic commerce.

The second is a gutting amendment offered by Representatives DINGELL, CONYERS, LAFALCE and GEPHARDT which, if adopted, will leave all consumers to ponder the question: Why did I just spend $1,200 on a computer? Now, think about it, Mr. Speaker. The scale of electronic commerce is undergoing dramatic change as a result of the Internet, networking and communications technology, and the expansion of computer memory and storage capabilities. Computer-to-computer communication is increasingly being used to initiate and execute a substantial and growing number of personal business and financial transactions.

Enactment of this E-SIGN bill will transform the way we work, the way we are educated, the way we contract for goods and services, and the way we are governed. It will make it easier for people using just a computer and a modem to pay their bills, apply for mortgages, trade securities and purchase goods and services without ever leaving the confines of their homes or offices.

□ 1215

But the consumer revolution that would be unleashed by this bill may never see the light of day if the Dingell-Gephardt amendment is adopted. So I am going to once again urge my colleagues to oppose that clearly anti-consumer amendment.

Mr. Speaker, my State of California is home to many of the companies that produce the technologies that are shaping the global electronic marketplace. In talking with business leaders in the fields of technology and finance, I am convinced that the promise of electronic commerce will never be fully realized without the establishment of a clear, uniform national framework governing both, and I emphasize both, digital signatures and records.

This is one of the most important economic challenges facing Congress, as our country transitions into our 21st century Information Age economy. With H.R. 1714, businesses and consumers can be confident that the transactions we engage in electronically are both safe and secure. This bill addresses this challenge in a way that ensures that competition and consumer choice remain the hallmarks of the emerging global electronic marketplace.

Mr. Speaker, this bill is one that is deserving of bipartisan support, as was evidenced in the suspension vote, although, as I said, we were just three votes short of what we needed to pass it. So I assume that the rule will sail right through and the bill, with only the amendment of the gentleman from Washington (Mr. INSLEE), will sail through, too.

Mr. Speaker, I urge my colleagues' support of both, and I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a restrictive rule which will allow for the consideration of H.R. 1714. As my colleague, the gentleman from California, has explained, this rule provides 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

This restrictive rule will permit only two /AELDZ to the base text. No other amendments may be offered. Mr. Speaker, electronic commerce has become part of our life for millions of Americans who use the Internet to conduct business. Congress needs to update our laws so that buyers and sellers can take better advantage of the new technology. One such change is to give electronic signatures and contracts the

same legal force as written signatures and contracts.

In concept, this change has broad support on both sides of the aisle and on both ends of Pennsylvania Avenue. This positive development would encourage electronic commercial activity and benefit both business and consumers.

Unfortunately, this bill goes beyond electronic signatures and contracts. It contains controversial provisions preempting State laws that require maintaining certain written records. It contains provisions opposed by consumer groups that would permit electronic notices and disclosures to be substituted for written notices. For these reasons, the bill failed to achieve the necessary two-thirds vote when it was considered earlier this month under suspension of the rules.

This restrictive rule we are now considering does make in order an amendment offered by the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), the gentleman from New York (Mr. LAFALCE), and the gentleman from Missouri (Mr. GEPHARDT), which will remove the controversial provisions of the bill and leave much needed language dealing with electronic signatures and contracts.

The rule also makes in order a bipartisan amendment that contains a number of consumer protections. The House is not served by rules which restrict the amendment process on legislation so important to the Nation's commerce. However, the two amendments which are made in order will give Members the opportunities to make meaningful changes to the bill.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

(Ms. LOFGREN asked and was given permission to revise and extend his remarks.)

Ms. LOFGREN. Mr. Speaker, I am very pleased that the rule makes in order the amendment offered by the gentleman from Washington (Mr. INSLEE), along with the gentlewoman from California (Ms. ESHOO), myself, and several other individuals, which strengthens and I believe solves the consumer protection issues that were of concern to some Members.

Specifically, on the third page of the amendment, and I will quote, the amendment would provide that ''Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.'' I think that is about as broad as we can get in terms of making sure that consumer protection statutes are undisturbed by this electronic signature act.

It is my understanding that the chairman of the Committee on Commerce is disposed to favor this amendment, and I think that shows the bipartisan effort that has been underway to make sure that this electronic signature act does become law. The other important provision of the bill guarantees the consumers the right to opt into electronic records, and really an astoundingly broad provision that allows the consumer to withdraw his or her consent at any time.

So I think this is a light touch in terms of regulation, but there is a need for consistency and a general scheme for electronic commerce, as we all know.

I am hopeful that Members will read the language of the Inslee amendment, along with the underlying bill, so they can assure themselves, as I have been assured, that this is a fair measure that will promote e-commerce and will do no harm to other important issues. Please do read the amendment, instead of just listening to the arguments.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to say very briefly that this is a bill that clearly moves us forward and recognizes e-trade and so forth. With that, I would urge the Members to support the rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 1714.

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

There was no objection.

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

The SPEAKER pro tempore. Pursuant to House Resolution 366 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1714.

The Chair designates the gentleman from Texas (Mr. BONILLA) as Chairman of the Committee of the Whole, and requests the gentleman from Washington (Mr. HASTINGS) to assume the chair temporarily.

□ 1226

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce, with Mr. HASTINGS of Washington (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last Monday the Committee on Commerce brought H.R. 1714, the Electronic Signatures in Global and National Commerce Act, to the floor under suspension of the rules.

Unfortunately, H.R. 1714 fell just four short votes of passage. The Clinton administration and minority leadership of this body mounted an intense lobbying campaign against the bill. We were proud of the number of votes that we were able to achieve in support of the bill, and we return to the House floor this week with the identical bill that was considered last Monday.

We remain confident that H.R. 1714 is strong legislation that helps to facilitate e-commerce in the new economy. This bill is perhaps the most important pro-technology vote that this Congress will take. It should not fall prey to partisan battles.

The Committee on Commerce unanimously, Mr. Chairman, unanimously voted this bill out of the committee this summer with support from both sides of the aisle. Since that time, we have worked closely with the minority leadership of the committee to craft the additional consumer protection provisions that appear in the bill considered last week and remain in the bill today.

We believe those negotiations to be fair and worthwhile, and were disappointed to learn for the first time on the floor last week that the minority did not feel the same. These important new provisions offer consumers strong protection in the electronic world. They require consumers to opt in if they wish to receive their documents in electronic form.

Let me repeat, nothing, nothing in this bill requires consumers to receive documents electronically against their wishes. Further, the bill requires that all consumers must receive important notices that may affect health or safety in the traditional paper form. This includes notices of such as the termination of utility service, cancellation of health benefits or life insurance, and foreclosure or eviction from a residence.

I would like to take this opportunity to rebut some of the charges and unfounded attacks that were made by my colleagues across the aisle when this bill was brought to the floor last week.

We heard that under H.R. 1714, consumers would be forced to accept electronic documents, even if the consumer

did not have a computer or an e-mail account.

□ 1230

We also heard that 1714 will sweep away Federal and State consumer protection laws. These claims, Mr. Chairman, are completely false.

As I have said many times previously, consumers must have safety, security, and privacy on line or they will not accept this new technology. H.R. 1714 provides on-line consumers with a confident assurance that their on-line transactions will be secure and that they will continue to receive the same consumer protections as consumers purchasing a product at a local shopping mall.

We also heard, much to my surprise, claims that the process for considering H.R. 1714 was unfair. First, it was claimed that the bill had been substantially changed since the minority had last seen it. In fact, it was even charged that the consumer protections in the bill had been removed. This is simply untrue.

We provided the minority with a copy of the text of H.R. 1714 before it came to the floor, and with minor exceptions that strengthen consumer protections, it was identical to the bill that they had agreed to just days before. The only real change was that the minority leadership had called a meeting with a number of Committee on Commerce Democrats in which they were told to stop cooperating with the majority, so we had the instance of politics overriding substance.

Mr. Chairman, there were also charges that the bill was brought to the floor too quickly. Again, such a claim is false. H.R. 1714 was approved by the Committee on Commerce unanimously by voice vote on August 5. We filed our report on September 27. The bill was originally scheduled to come to the floor on October 18, but I asked it to be withdrawn so that we could continue to negotiate with the minority.

The bill brought to the floor on November 1 was the product of 2 weeks of negotiations with the minority. This can hardly be considered rushing legislation to the floor. Some have said that all that was needed was one more day of negotiations. To that I say we have given the minority 14 days of negotiations.

Any charges that the majority acted in bad faith are simply incorrect. I gave the minority every opportunity to provide input from before the bill was introduced to right up until the bill came to the floor. I think our negotiations were very successful. In fact, key consumer protections in the bill, Mr. Chairman, were the result of our negotiations with the minority.

Unfortunately, at the last minute the minority leadership decided they had to block this legislation. They had to keep Republicans from passing an important pro-technology bill that enjoys unanimous support, unanimous support in the technology community.

I would also like to touch on one more important consumer issue that has been little discussed until now. Electronic signature technologies provide consumers with much more assurance that their transactions and communications will take place in a safe, secure and private environment. The encryption capabilities that are used to protect such valuable signatures offer much greater protection than ever possible in the traditional paper world.

Electronic signatures provide a level of authentication that far surpasses the ink signature that has come to be the accepted standard. Moreover, H.R. 1714 makes it possible to have seamless and efficient processing of electronic signatures records. Electronic transactions have much less chance of human error, and provide for more reliable retention after the initial transaction takes place.

Critics have argued that this bill should not apply to records. In fact, they want to severely narrow the bill's scope to delete records. This would be a shame and I could not support it. Records are an important component in electronic commerce transactions. Consumers will benefit from the use of electronic records and we should provide the legal framework to allow their use and acceptance.

The world is moving towards a paperless society and we cannot sit back and ignore reality as some would like us to do. A proper course of action is to address records by adding appropriate consumer protections like we have done in H.R. 1714.

Mr. Chairman, the 105th Congress was credited with passing monumental legislation to help facilitate E-commerce. This vote is perhaps the most critical one that the 106th Congress will consider to continue the growth and success of the digital economy. If Members support the U.S. high-tech industry, they will vote ''yes'' on this bill. A vote in support of H.R. 1714 is a vote to support providing consumers with greater security in on-line transactions. It is a vote in support of allowing business to provide new and innovative services on line.

Mr. Chairman, I understand that an amendment will be offered today by a number of my colleagues, including the gentleman from Washington (Mr. INSLEE), the gentlewoman from California (Ms. ESHOO), the gentleman from Virginia (Mr. MORAN) and the gentlewoman from California (Ms. LOFGREN). This amendment further clarifies the important consumer protections that are included in this bill. I thank the gentleman from Washington (Mr. INSLEE) and his colleagues for their constructive work on this amendment and recognize that he and several other Members of his party have made valuable contributions to this process, instead of trying to undermine it.

Mr. Chairman, I will support this amendment and I ask that all Members of the House do the same. I urge my colleagues to rise above partisan politics and support H.R. 1714.

Mr. Chairman, in September, the Banking Committee raised with the Commerce Committee the need to make clear that the ''the autonomy of parties'' provision of the reported version of H.R. 1714 was not intended to limit the authority of the Federal banking agencies to impose and enforce minimum safety and soundness standards for the use of electronic signatures and records by entities they regulate. I want to assure the Banking Committee today that the language in Section 103(a)(4) of the modified text before us this afternoon was drafted so as to accommodate those concerns. Nothing in this bill should be interpreted to interfere with the authority of federal banking agencies to impose and enforce minimum safety and soundness standards for the use of electronic signatures and records by entities they regulate.

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

Mr. DINGELL. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I want to express considerable affection and respect for the gentleman from Virginia (Mr. BLILEY), my good friend and the chairman of the committee. But I want to observe that he is in error on a number of important points.

First of all, we did have 2 weeks of negotiation and we were making good progress. Second of all, the gentleman from Virginia terminated the discussions and brought the bill to the floor without completing the negotiations. I would observe we were making good progress. I would observe we could have made further good progress and we could have a bill which could pass unanimously. Regrettably, we do not because there are important consumer protections which are missing from this bill.

The haste is charged up to partisanship. Well, that might perhaps tell more about the author of that statement than it does about anybody else. In point in fact, our concern here is protecting consumers and I will address that question as I go forward in my statement.

Mr. Chairman, I also would observe something else and that is that there is no magic to completing this legislation now, nor is there magic in completing it within 14 days. Completing legislation well in a fashion which serves the interests of all parties, those who would engage in electronic commerce and those who would be consumers and customers of those who engage in electronic commerce, is in the best traditions of this institution.

Now, Mr. Chairman, I would observe something else. The future of the American economy depends upon our making this new form of conducting business a success, one which can be accepted by all and which can be regarded as being fair indeed to all. Unfortunately, the bill before us contains major flaws that harm consumers, and I regret that the gentleman from Virginia did not give us more time in which to complete those matters.

Regrettably, I therefore must oppose the bill in its current form. The gentleman from Virginia (Mr. BLILEY) did

work closely with the minority to correct some of the deficiencies. I regret, however, that gaps remain, some of which are indeed serious.

It is interesting to note that many of the companies recommending and representing the high-tech community do not oppose the consumer protections which we think should be included. Regrettably, a small but nevertheless important minority of business interests continues to oppose consumer protections in any form. Those are not, regrettably, people in the electronic commerce business. Those are simply people in the financial interests of this country which want to have it all their way, and I can sympathize with my friend from Virginia in dealing with such an obdurate lot.

An amendment today which will be offered will seek to improve the legislation, and I commend the authors of the legislation, the gentlewoman from California (Ms. ESHOO), the gentleman from Washington (Mr. INSLEE), and others. Unfortunately, the amendment would improve certain aspects of the bill but, unfortunately, it still falls short.

The Bliley bill, even with the Inslee amendment, would harm consumers in several ways. First, it would not require any notice, conspicuous or otherwise, that consumers are entitled to receive certain records in writing under existing law. Before choosing to receive these documents electronically, I believe consumers should be given specific notice as to what existing rights they are giving up. Regrettably, the Bliley bill leaves consumers in the dark on this matter.

Secondly, the opt-in provision as currently structured in the bill before us would allow all sorts of dissimilar records to be bundled together giving, at best, confusion to the consumers and would require them to essentially take an all-or-nothing approach in which records they agree to receive electronically.

Clearly, there are records and records, and clearly they should and can be easily treated differently by the consumers and the purchasers.

In effect, an on-line merchant could require consumers to take it or leave it, thereby defeating the will of the parties, and especially the consumers, to receive some records electronically, but not others that they would prefer to receive in a traditional form.

Finally, the bill would allow merchants to vitiate contracts entirely if consumers do not agree to opt in to receiving records electronically. That is not an option. In the law it is called a ''contract of adhesion'' and in a word it is a contract which is not equal and in which the parties are not equal parties to a contract.

Clearly, if we are seeking to improve the attitude of consumers and to earn their trust, this is not the way that the matter should be handled. The administration shares these concerns and strongly supports the substitute which I will offer today with the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. LAFALCE).

The administration has additional concerns, as do I, concerning the effect of this bill in on-line transactions. For these reasons I urge a ''no'' vote on H.R. 1714 and urge my colleagues to support the substitute which has been made in order by the Committee on Rules.

The substitute would take an important first step, fully recognizing the validity of electronic signatures in contract law. That is good. The legislation will give Congress the additional time to explore the effect on consumers of the new electronic contract laws to the myriad of important records and documents that accompany these agreements. It also would avoid stomping on the actions of legislatures in having created and in addressing contract problems, as they have traditionally done under the historic laws of the United States, wherein the matters of ordinary commerce are dealt with by the several States and dealt with well, indeed, under things like the Uniform Commercial Code.

Mr. Chairman, I see no reason for supplanting the knowledge, reason, and expertise and the traditions which have vested in the legislatures the ability to address these questions by adding a whole new array of changes which may or may not be in the consumers' interest and may not be in the interest of business in the United States and which clearly are opposed by consumer groups and by the administration.

Mr. Chairman, I ask unanimous consent to yield 15 minutes of my time to the distinguished gentleman from Michigan (Mr. CONYERS) to control as he sees fit.

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

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce, for yielding me this time. I particularly want to commend him for this legislative effort and, like him, I want to thank particularly the gentlewoman from California (Ms. ESHOO) of our committee who has done such great work over the years in helping to develop an electronic signature bill for the E-commerce age, and the gentleman from Washington (Mr. INSLEE) and others for working with the chairman of the committee in offering a very helpful amendment that we are going to hear about later today.

Mr. Chairman, let me first say that this bill obviously has the support of an incredible array of business groups, including the United States Chamber, which is going to score this as one of our major votes this year because business sees this, of course, as a major step forward in the development of electronic commerce for our country and our country's economy.

But I want to speak more importantly about the impact of this E-SIGN bill on consumers. I think we all agree that consumers are the backbone of the electronic commerce model. If consumers do not feel comfortable, if they do not feel at ease with this new technology, then they are going to lose confidence in the growing electronic commerce of our country and the world, and that is certainly a result no one wants.

I understand, Mr. Chairman, that over 10 million Americans are going to join in the electronic commerce revolution this Christmas and make purchases for their Christmas gifts over the Internet.

□ 1245

But as more and more consumers come to use the Internet and the electronic commerce, this E–SIGN bill is going to become more and more important. This bill strikes, I think, the right balance. It recognizes that we are moving toward electronic transactions and then allows many types of transactions to take place over the Internet while, at the same time, it continues to provide the protections that consumers have been accustomed to in the world of paper and written checks and contracts, and in the analog world itself.

H.R. 1714, which I was very pleased to join the gentleman from Virginia (Chairman BLILEY) in sponsoring in its onset, recognizes that there are important State and Federal laws that protect consumers today such as the requirement that consumers be provided copies of important documents such as warrants, notices, and disclosures.

This bill recognizes and retains these important consumer protection laws and develops a system whereby consumers can choose to accept electronic versions of the documents and then receive them electronically. Understand, consumers choose to do so.

It furthermore provides that consumers must separately and affirmatively opt in and consent to receiving important documents electronically and then must be assured that those documents can be retained for future use. That is why this bill has the right balance, good for business, good for consumers.

Let me say a word in opposition to the substitute that we will see. The substitute would apply only to contracts.

Let me give an example of what the substitute will miss. Today we spend almost $4 billion handling paper checks with an electronic commerce world; $4 billion could be saved for consumers if, in fact, we could literally bank electronically without the necessity of all this paper. Imagine all the weight this paper has in the transport industries as

cargo on planes. If one eliminates all that paper in our lives and in the shipment and cargoes and transportation, those kind of savings are ours if we reject the substitute and stick with the main bill.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to begin by thanking the gentleman from Michigan (Mr. DINGELL), dean of the House and the ranking member of the Committee on Commerce, for sharing the time in general debate with the Committee on the Judiciary that I represent on this side.

Now, Mr. Chairman, we all know there are millions of Internet users and millions of consumers, and that this number increases daily. It has been said here earlier, electronic commerce is the future of our economy. As more and more people buy and sell merchandise on-line, we find that e-commerce has made life easier for people as well as improved our overall economy by making shopping and other commercial transactions far more convenient.

I want to enact Federal legislation that would facilitate electronic signatures and make e-commerce more robust. We need to ensure that contracts are not denied validity that they otherwise would have simply because they are in electronic form or signed electronically.

Now, if the measure before us did this without doing violence to our most cherished and long-fought consumer protections, I would be supporting it without reservation. Now, especially with the recent decision in the Microsoft case, which suggests that a high-tech giant may not always be friendly to consumers, it makes it even more important than ever that consumers have confidence in the Internet and that they believe it is friendly and a friendly place to do business. This is critical to the future of this whole industry.

It is only when consumers have confidence in on-line transactions that it will become the vibrant marketplace that it can be. The high-tech community should not let itself be hijacked by security firms or banks or the insurance industry whose history with respect to consumers has not always been what we would wish it to be. The on-line community should be in the forefront of consumer protection. Instead, they are being dragged backwards by special interests.

That is where I hope that I may be able to be of some small help in this debate, because this measure, as it is written, goes far beyond the needs of the vast majority of on-line businesses. H.R. 1714 has become an 11th hour grab bag for our special interests to hurt consumers by undermining critical laws that require notice of rights and that prevent unscrupulous business people, of which, unfortunately, there are some, from cheating unsuspecting customers.

Because of the special interests overreaching, what started as an uncontroversial bill to validate electronic signatures and contracts has turned into a battle over the electronic records of every type imaginable. Let us try to rescue this measure from that kind of a result.

So for this reason, instead of considering a bill that should be a win-win situation, both for consumers and e-commerce, we are now being pressured into voting on a bill that pits the opportunities of one against the rights of the other.

It is, therefore, no surprise that the bill is opposed by our administration. It is opposed by consumer groups. It is opposed by the National Conference of State Legislatures and the United Automobile Workers and many others.

So what we have here is, unfortunately, a very good idea that has attached to it provisions that undermine consumer protection laws that would require notice, warranties, and disclosures to be in writing because it permits consumers to unwittingly click away many of these rights.

For example, critical notices regarding the cancellation or change in terms of insurance agreements or a change in the interest rate or the service or the change of a servicer of a mortgage, of recall notices, and other warranty information could be sent electronically or posted on a Web site regardless of whether the person owns a computer, which it may not come as news to you, many people do not, or whether the consumer has an e-mail account, which they may not, or whether they know how to navigate the World Wide Web even if they have the technology, some of which do not.

Furthermore, this measure stands for the proposition that the States somehow do not have the ability to enact their own electronic commerce laws or to reinstate many additional consumer protections.

So rather than respecting the tradition in our country of hundreds of years that reserves contract law to the States, the bill says that the States, that they may only reenact supplemental consumer legislation if it fits into a narrowly described category.

So far, thus, even if a State wanted to maintain its protections against fraudulent or deceptive practices and automobile sales, for example, the Federal Government would in effect tell the State that it cannot do so.

So for these and other reasons, we have created, along with the gentleman from Michigan (Mr. DINGELL) and the other Members, a substitute that represents the bipartisan language agreed on by Members of the other body, Members, Senator ABRAHAM and Senator LEAHY, that satisfies the needs of the high-tech community which we laud without sacrificing consumers in the process.

So I urge that my colleagues reserve their support for this substitute.

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

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS) in strong support of this legislation.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, I am proud to be an original cosponsor of this legislation and also familiar with the need to provide legal certainty to electronic signatures and electronic records. That is why I eagerly cosponsored this legislation, because I think it is time for Congress to take positive, not regulatory, steps to help promote growth and development of electronic commerce.

Late last week, we were surprised by the minority leadership. They must have decided that appearing to oppose high-technology legislation was not the political stance, so they decided to introduce their own electronic signature bill, H.R. 3220, which we will be considering later today as a substitute amendment.

Unfortunately, that legislation falls way short of what is needed. The appearance of supporting technology legislation is not enough. There has to be substance behind that appearance. I believe that H.R. 3220 falls short.

Last week on the floor, I spoke at length about the important consumer protections contained in this legislation, H.R. 1714, and tried to rebut some of the claims that this was bad for consumers. I would like to briefly touch on some of those points.

First, consumers are absolutely free to choose or not to choose to enter into an electronic transaction. Nothing requires any party to use or accept electronic records or electronic signatures. The bill simply offers consumers the option to engage in electronic transactions. If a consumer does choose to conduct an on-line transaction, that consumer is protected by the underlying Federal or State laws governing that transaction.

If a law requires that a notice or a disclosure be made available in writing to a consumer, then those traditional writings must continue to be delivered to the consumer. Nothing in this bill, nothing, will nullify such existing State consumer protection laws.

Let me reiterate. Under H.R. 1714, consumers must be provided with important notices, disclosures, or other documents as they are entitled to receive under the current law.

Before a consumer can receive an electronic copy of an important document, such as a warranty or a disclosure, a consumer must separately and affirmatively consent to receive such a document electronically. That is, a consumer must specifically approve of receiving electronic documents and that portion of a contractor agreement telling a consumer what documents he or she will receive electronically.

I urge my colleagues to support this legislation. The companies and manufacturers that use electronic technology, along with on-line users, need this legislation.

Mr. DINGELL. Mr. Chairman, may I inquire of the time remaining.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 15½ minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 7½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 9 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Michigan, the distinguished ranking member of the House Committee on Commerce, for granting me the 2 minutes, especially since we hold opposing views on this. But I sincerely appreciate it.

Mr. Chairman, I rise in support of H.R. 1714, and I urge my colleagues to do support its passage.

I would like to thank the gentleman from Virginia (Mr. BLILEY), the distinguished chairman of the full committee, for his work on the legislation and for all of my colleagues for their interest in this very important public policy area.

As many of my colleagues know, I have a legislative history on the issue of electronic signatures in the Congress, having introduced the first piece of legislation addressing this issue in the last Congress and succeeding in passing it into law. That bill required Federal agencies to make government forms available on-line and accept a person's electronic signature on these forms.

In this Congress, I introduced a bill to expand the legality of electronic signatures to the private sector. Today, we are going to discuss a very important amendment to the bill of the gentleman from Virginia (Mr. BLILEY), which I believe improves the bill as it relates to consumer protections.

The bill includes technical neutrality, and it grants to States who have not yet adopted legislation in this area this piece of legislation; and if they so wish to come up with more stringent legislation in a given period of time, they then can do so.

□ 1300

I believe that the Congress must ensure that no roadblocks exist which would stymie the growth of e-commerce. So I think the Congress must act to bridge the gap between now and the time when every State has passed an updated form of the Uniform State Law Code. The projections for the growth of e-commerce and its effect on our economy are just simply too overwhelming. Business to business e-commerce was nearly five times greater than e-commerce in the consumer market, reaching $43 billion just last year.

This bill ensures that our laws do not impede this staggering growth, and with the adoption of the amendment that we are going to discuss, and which I am proud to offer with my colleague, the gentleman from Washington (Mr. INSLEE), and several other Democrats, the bill takes a major step in guaranteeing that strong consumer protections can coexist with transactions in cyberspace. I think that we can do both, Mr. Chairman, and I am proud to support this bill, H.R. 1714, and urge all of my colleagues to support it.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Chairman, I rise in strong support of H.R. 1714.

Last Thursday, Mr. Chairman, the House passed legislation to modernize the laws that govern our financial services industry. The laws we changed were more than 60 years old and had been bypassed in recent years by the marketplace. Congress was in many ways just trying to catch up with what had already happened. The lessons we learned in that debate I think are quite clear. If Congress cannot respond quickly to the changes in the marketplace and update the applicable laws, the inevitable result will be more harm than good. The longer we wait to act, the more entrenched the various factions will become, making it more difficult for legislation with each passing day.

We do not need another web of inconsistent State laws and Federal regulations that will leave consumers and businesses guessing whether their contract is valid or not just because it was conducted on line. Let us understand that the world is changing and the Congress needs to change the laws to reflect those inevitable changes. Electronic commerce is growing exponentially and will continue to change the way we conduct our business. Given the opportunity before us to enhance electronic commerce in the same manner the marketplace has, it would be foolish to a large extent not to provide the legal certainty that will benefit consumers and facilitate commerce. Our laws need to keep up with the significant technological developments.

This bill, sponsored by the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), is designed to bring legal certainty to electronic transactions. Legal certainty. The parties need to understand that when they sign that contract there is a legal binding obligation on both of them, and the handwritten signature more and more becomes less and less significant.

Mr. Chairman, this is another essential step necessary for our economy to take advantage of the efficiencies of electronic commerce. This is the same exact legislation most of us supported just last week. I will also be supporting the amendment by our friend, the gentleman from Washington (Mr. INSLEE), who will be offering that recordkeeping provision and clarifying the recordkeeping provisions of the bill.

Mr. Chairman, this legislation is good public policy and it continues a strong tradition by the Committee on Commerce of enacting legislation that keeps up with the electronic marketplace that is changing so dramatically. I urge strong support of this legislation.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, I am pleased to appear today in favor of 1714, especially after the Inslee amendment is adopted. I would like to say that some of the tinge of rhetoric that approaches partisanship, I think, is unfortunate.

I am privileged to serve with the gentleman from Michigan (Mr. CONYERS), the ranking member, who really has played such a leadership role in so many high-tech issues this year, including the patent reform bill and the Y2K reform bill. I mean we are here because we are dealing with difficult times, a transition from the analog world to the digital world, and I think that as we do that, we have to create a transition rule for the parts of the country that are not where Silicon Valley is yet.

In doing so, I think it is important that we establish some principles. I heard the distinguished Member from Michigan mention contracts of adhesion, and clearly contracts of adhesion violate contract law. I think it needs to be emphasized that nothing in this bill amends contract law other than the means of transmission. The medium for transmission does not change the substance of the law. A contract is a contract is a contract.

We recognize that because we are in a transition area there are certain things that are too high risk to have fully in electronic commerce in this transition period, including foreclosures of real property and the like, that are outlined in the bill of the gentleman from Virginia (Mr. BLILEY), but it is important that we take a step forward to promote electronic commerce.

How do I do it? We bought our last car on line. And when I get the notices, I just click and file those notices under my commercial receipts file in my e-mail account. When I go to amazon.com, and they send me the notices of where my books are on the way, I file those in a pending file. Some day, all of us will do that.

For now, this bill, with the amendment, will allow all of America to move forward.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA), a distinguished member of the committee.

Mr. FOSSELLA. Mr. Chairman, I thank the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), for yielding me this

time, and I compliment him for his efforts and his leadership.

The American people want action, they just do not want words. And when we add this to the Telecommunications Act of 1996, and as was mentioned earlier the Financial Modernization Act that was passed overwhelmingly by the House and Senate last week, I think the gentleman from Virginia (Mr. BLILEY) deserves a lot of credit from this Congress because, ultimately, it means good things for the American consumers, more jobs, and coming out on the side of growth, such as the case with the Electronic Signatures in Global and National Commerce Act.

I rise today in support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act. As of today, the success of electronic commerce has led 44 States to enact laws to provide recognition for electronic signatures and records. However, all 44 statutes are different and many only recognize the use of electronic signatures and records in governmental transactions. In today's global economy, a certain level of uniformity is necessary in order to conduct the business over State and international borders. That is common sense.

While electronic commerce, in theory, represents the perfect model of interstate commerce, these many conflicting standards lead to legal uncertainty, to the point where it becomes impossible to effectively use electronic signatures in the digital arena.

H.R. 1714 creates a uniform nationwide legal standard for the use and acceptance of electronic signatures and electronic records in interstate commerce. It allows parties the freedom to set their own rules for using electronic signatures and electronic records in interstate commerce. Any contracts or agreements developed electronically by the agreeing parties have full legal effect.

H.R. 1714 furthermore recognizes the progress that States have already made in the area of electronic signatures and allows them to pass any statute that complies with the basic principles of this Federal bill.

Mr. Chairman, I urge my colleagues to join me in supporting this important bill. It is common sense and it puts Congress on the side of facilitating and encouraging economic growth instead of standing in its way.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I think the entire body wholly supports and we want to use this opportunity to encourage the growth of the Internet and e-commerce, but moving to a digital world, moving to the world of the Internet, it does not follow that every principle of Federalism and every principle of consumer protection should be wiped out, obviated and extinguished in the name of advancing e-commerce and e-contracts and e-signatures.

Eliminating hard fought laws, both State and Federal, that make sure that a consumer has the information that they need to make informed decisions takes us back to the age of scams and frauds, but this time in the on-line environment. We have been so successful in developing a legal environment that gives consumers' rights and assures that outlaw merchants are dealt with, it is not necessary and it benefits no one for the Internet to become the place for unscrupulous businesses to flourish. My fear is that H.R. 1714, the underlying bill sponsored by the gentleman from Virginia (Mr. BLILEY), would lead us down that path.

The high-tech industries are seeking an immediate Federal law validating electronic contract formation to help pave the way for the growth of electronic commerce until States can adopt a recently promulgated Uniform Electronic Transaction Act. We need to provide that help, but H.R. 1714 goes way, way beyond this need. It satisfies a much broader, much more controversial, long-range desire of financial services and insurance industries to accomplish the goal of the financial services.

H.R. 1714 seriously undercuts hard fought consumer protections as well as both Federal and State regulatory requirements. The bill threatens a State's ability to adopt a uniform State law with a permanent preemption provision.

The National Conference of State Legislatures, in their letter of November 1, opposes H.R. 1714, stating that the legislation will eviscerate consumer protections and impede the States' insurance securities and banking agencies in their regulatory oversight of the financial services industry. This from the State legislatures.

In a letter we received today, the National Consumers Law Center, the United Auto Workers, and the Consumers Union expressed their opposition for the underlying bill, and even with the Inslee amendment, and their support for the Dingell-Conyers-LaFalce-Gephardt substitute.

States and the Federal Government should have the opportunity to review their writing requirements and determine which can be done away with and which standards should apply in each specific situation where electronic records may be substituted. A reckless uninformed broad-brush approach, such as we see in H.R. 1714, is offensive to this notion. We cannot blindly wipe away State and Federal writing requirements and then provide a narrow patchwork of exceptions and opportunities for only States, not the Federal Government, not Federal regulatory agencies, to reestablish requirements where needed after some disastrous systemic failure.

The substitute amendment offered by the ranking member, the gentleman from Michigan (Mr. DINGELL) and his colleagues, provides the needed uniformity as to contract formation. It gives the boost that is needed for e-commerce without interfering with existing laws that address writing requirements for important notices, disclosures, or retained records necessary for regulatory or supervisory government activities.

This amendment, the Dingell amendment, is the very same language as the bipartisan compromise reached by Mr. ABRAHAM and Mr. LEAHY in the Senate. If H.R. 1714 were to pass the House, it would never see the light of the day in the Senate, it would be vetoed by the administration, and it would mark us as supporting an anti-consumer bill.

I urge opposition to the bill and support for the Dingell-Conyers amendment.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Roanoke, Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I especially want to thank the gentleman from Virginia, the chairman of the Committee on Commerce, for his leadership on this issue. He has been at the forefront of this issue throughout this Congress, and this is vitally important legislation that I urge my colleagues to support and to oppose any substitutes or any alternatives.

The previous gentleman made reference to protecting consumers. In my opinion, this legislation does more to help consumers in the transactions that they participate in than anything that we could do with relation to making sure that they get prompt and adequate disclosure about contracts they sign.

□ 1315

None of the current Federal or State laws are abrogated in terms of notices that go to consumers regarding particular transactions that they participate in. They simply will be allowed to receive those notices electronically now. And that has a number of very positive benefits.

First, it is faster. If there is a change in circumstances, if there is a problem with a product, a defect, they are going to get that notice much more quickly electronically than they will get it through the mail.

Secondly, it is cheaper. Some types of financial transactions are 100 times more costly to conduct in person than they are if they can conduct the transaction electronically. And if they are dealing with somebody on the other side of the country, the delay in being able to participate in that and close that contract, because we do not have a nationally recognized standard for accepting digital signatures, is very costly to consumers as well as to other people. Business people engage in business-to-business transactions, as well.

But probably the most important reason why this is more helpful to consumers than current law is that the information they get will be better; it will be more comprehensive.

If they have a notice about a particular disclosure that is required under the law for a real estate closing

or a bank loan, whatever the case might be, and they do not understand a particular word in that notice, under electronically transmitted information, the bank or the other company providing the information can put a whole host of other information on-line. They can click on a particular word in that notice and get an explanation of it, a definition of the word, if they do not understand what it means in that particular context.

So from the standpoint of the consumer, this is vitally important.

Secondly, from the standpoint of uniformity, of having one national area of commerce to be able to conduct business across State lines without the difficulties that come from a morass of, a variety of different laws from different States, that is vitally important.

Now, instead of being only able to buy from people nearby them all governed by the same State law, people are now empowered to buy things by auction or other ways on-line from a whole host of different ways.

I urge Members to reach across the line. We have had some differences on this bill. Let us have a strong bipartisan vote. It had almost a two-thirds vote when it came up under suspension. Let us give it a majority here today.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I rise in support of H.R. 1714 after completion of our amendment.

I want to thank the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), and the gentleman from New York (Mr. LAFALCE) for their guidance and longtime leadership on consumers issues. They have helped me craft this amendment in a way that I think will help consumers.

I want to thank the gentleman from Virginia (Chairman BLILEY) for his courtesy in trying to put this together.

Mr. Chairman, I want to tell my colleagues that I believe we have a product, after completion of our amendment, that is pro-consumer. I will tell my colleagues two reasons. Number one, this is a consumer freedom bill. It gives consumers a new freedom and the freedom to be allowed to receive information and complete transactions electronically, a right, a freedom that will remain theirs and theirs alone. Only consumers will have the prerogative to decide whether or not transactions are electronic.

Secondly, Mr. Chairman, I want to make abundantly clear throughout this debate, nothing in my amendment or the bill, nothing, not one word, will remove one single consumer protection to receive a notice of any law in this country State, Federal, or municipal. Look at page 3 of our amendment. Nothing will remove the right to get this notice.

All it does is it changes from papyrus or lambskin to electronic at the consumer's request.

Mr. BLILEY. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Virginia (Mr. BLILEY) has 8 minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 1½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 6 minutes remaining.

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the distinguished gentleman from Michigan (Mr. DINGELL) for yielding me the time.

Mr. Chairman, I rise in opposition to this bill. I would have opposed the rule had I been here and requested a rollcall vote. The fact of the matter is, late in the session, first this is attempted to be passed on suspension of the rules. It has been a moving target for the last 3 weeks in terms of how this bill can be sold to the Members of this body.

I think any discussion or evaluation of this measure yields more and more problems that are inherent in the bill. The fundamental bill in terms of electronic signatures, as has been pointed out by some of my other colleagues, probably could have been passed with near unanimous support in this body.

The fact is that this bill does not just deal with electronic signature but goes on to invade a plethora of both State and national laws which are at the heart, basically, of financial transactions and consumer protection, which have received the deliberate judgment of this Congress for decades and, I trust, that of legislatures across this country.

It fundamentally invalidates any State law and a host of Federal laws that are inconsistent with the provisions of this bill. It permits consumers simply on the assumption that they understand what is in the disclosure documents and records to dispense with them and to receive them electronically.

I would just suggest that the efforts to date to try and repair this by virtue of accepting something like the Inslee amendment simply sugarcoats the end result. The end result will be the same.

I appreciate the effort of the gentleman to try and protect consumers. But, in the end, I think that that proposal may make something more palatable that is indigestible in terms of what goes down.

This bill fundamentally is an overreach. It sunsets all of these State laws with the right for States to come back and reenact them.

Well, we all know the host of special interest groups that are going to be there waiting to oppose that both at the Federal and State level such enactment. It just is breathtaking. And it is dumping and reneging on consumer laws that exist and protect individuals.

Mr. Chairman, I rise today in support of the amendment, and against the underlying legislation. While I favor an implementation of the use of electronic signatures, this measure sets a policy path of electronic commerce and computer dependence, and strips key federal and consumer safeguards and protections from transactions.

I have deep reservations about this legislation for reasons which I brought forth on the floor last week. One specific concern which I raised at that time was that H.R. 1714 completely undermines protections afforded by laws and regulations such as the Consumer Credit Protection Act, Truth in Saving, the Real Estate Settlement Procedures Act and other key consumer laws such as the Magnuson Moss Act, which is the federal law requiring basic information about the extent and limitations of warranties to consumers.

I requested to offer an amendment last night at rules which would add these protections to the provisions excluded in the bill, so that these laws would not be overridden. Unfortunately, this amendment was not made in order by the Rules Committee. By preserving, not preempting the requirements of these laws that afford consumers key information at the right time before, during and after transactions are consummated, the Vento amendment would have assured that essential information required by federal laws and regulations would not be made electronically when a consumer might not have a computer, might have a broken computer or printer, might acquire a new e-mail address or service provider, or might not clearly understand the importance of notifications or disclosures that they assent to obtaining electronic electronically, never to read or know if they missed it. Without these protections, populations like our seniors who are already at a technological disadvantage will be rendered even more vulnerable.

I also offered an amendment which would have added a new section providing privacy protections to this legislation. This too was rejected by the Rules Committee. Digital signatures will make it easier for consumers to buy goods and services directly from the comfort of their own homes, and allows businesses an unprecedented opportunity to reach more customers. This expansion of e-Commerce, however, should not come at the expense of allowing for the misuse or exploitation of a wide range of consumer data. This amendment would have allowed consumers to regain some control over their own personal information without unnecessarily hindering Internet services which collect information for legitimate purposes, and replace the self regulated environment that is being promoted today—without standards or compliance and no enforcement. It is unworkable and unacceptable.

Specifically, my amendment would have disallowed any Internet service from passing on information to a third party unless clear and conspicuous notice is provided and consumers are allowed an opportunity to direct that the information not be shared. In addition, consumers would be able to require a copy of the information compiled about them at no charge, and allowed to review, verify or correct such data. Internet services would still be able to share information with their affiliates, allowing them to perform necessary transactional services and functions. Most importantly, this amendment would have ensured that those businesses which offer services or products over the Internet take affirmative responsibility to maintain the integrity of the information being accumulated.

Recently, the House included privacy provisions into the Financial Services Modernization legislation. This was a step forward in the arena of providing safeguards for consumer data. However, we are all well aware that concerns regarding the protection of consumer data go far beyond the realm of the financial world. It is important that we in Congress support a clear and consistent message when dealing with the issue of information collection and use. This amendment would expand privacy regulations to ensure that consumers as well as businesses are able to utilize technology to its fullest potential without infringing on the basic right to privacy.

Some of my other concerns have been addressed by the Dingell/Conyers/LaFalce/Gephardt amendment, which I have cosponsored. This substitute amendment recognizes that in order to be successful, e-Commerce can not pit high-tech business against consumers. Additionally, it deals with another problem which I raised last week, by not undermining State rights and judgment in dealing with issues such as what records must be retained in paper forms and when and how consumers must be notified about changing circumstances or enforcement of key contract terms. Additionally, it provides that a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation. These are common sense measures which ensure that consumers are not the unsuspecting victims in the excitement to embrace technological advances in commercial dealings.

In conclusion, I feel that the House should address the issue of electronic signatures in its totality, and H.R. 1714 fails to address several areas which should be further improved. The consequences of moving too quickly on the implementation of legislation which will expand e-Commerce can not be underestimated. The law of unintended consequences should be avoided by not over reaching with the underlying measure. With the vast potential that the Internet promises, it is vital that we consider the interests and needs of businesses, the industry and consumers equally, so that everyone can benefit from this venture.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, we have heard a lot about the digital divide. And certainly one exists between those school systems and communities who can afford to be wired and those who cannot.

But there is also a digital divide in the Congress. It is between those who understand the new economy and what constructive role we can play in it and those who are afraid of it and feel the need to protect us from it.

The people who are using the Internet with their computers around the country tend to be more confident of themselves than we are of them and their ability to use the New Economy to their advantage. They, in many ways, are more knowledgeable than we are about the role that computers can play in making their lives easier and more productive. They certainly want to be empowered to have the choice of whether or not they will use their computer to maximum advantage because they are far more interested in opportunity than in security.

In fact, when they were recently asked in a survey what was more important to them, opportunity or security, they saw opportunity overwhelmingly as more important to them. They wanted to be able to protect themselves, certainly, but they feel empowered to do that on their own. .

The fact is that the consumers that will be affected by this bill will be empowered, will be advantaged by this legislation. It is not just companies who will be able to operate more efficiently. It is consumers who want the ability to use their computers, to use the Internet in the most efficient and effective and legal, manner possible.

The fact is that in this bill consumers who will be using e-commerce, digitized signatures, have the opportunity to affirmatively and separately consent prior to receiving their notices electronically. It ensures that existing consumer protection laws that are in place today are maintained. The fact is that we build upon the laws that exist today.

This is going to come. It can either come with the support, the encouragement, the empowerment by the Congress, or it can come despite the Congress. We ought to work for and with the new economy, not in opposition to its culture and its opportunities.

My comments are really directed to my own party because I know that the opposition is well intentioned; and it is thoughtful and it is knowledgeable. But it is wrong and shortsighted. The reality is that what we are debating is already happening today.

Digitized signatures work. People find them to be not only easier to use but, in fact, entirely consistent with the economy in which they are operating. This will show that the Congress can be ahead of the curve, that Congress can play a constructive role, that the Congress can be leading instead of impeding. Instead of always trying to play catch-up like we had to do with the Financial Services Modernization Act.

Look to the consumers who are using the Internet. They are asking for this ability to use digitized signatures. This is what the new economy is all about. This is why we are so prosperous. We ought to be part of this progress by contributing to it and certainly not oppose thoughtful legislation like this.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. CONYERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), my colleague on the Committee on the Judiciary.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 2½ minutes.

Mr. DELAHUNT. Mr. Chairman, I thank both gentlemen for yielding me the time.

Mr. Chairman, at our hearings on the Committee on the Judiciary, we were told that legislation was needed to ensure the validity of electronic agreements entered into by private parties until the States are able to adopt the uniform electronic transactions act. In other words, it was needed to fill the gap until the States could act.

That made sense. But then the bill was hijacked. Instead of filling the gap, it preempted the field; it prohibits the States from enacting the uniform law, as California has just recently already done, in a way that preserves consumer protections. It even prohibit the States from reenacting those protections to the extent that we supersede them.

Now, how do people who only yesterday were waving the banner of States' rights and espousing federalism defend a bill that sets aside the will of the States in such a cavalier fashion?

Well, we hear the term ''uniformity.'' Yet, if uniformity were all they were after, they would have been satisfied to let the bill sunset as the uniform act is adopted by each of the States over the coming months. And they did not. It is not in the bill.

What the proponents of the bill really want is to arrest the process, to prevent the States from preserving consumer protection laws, which they want to do away with. It is that simple. It is one thing to try to ensure the validity of electronic signatures. I support that effort, and I am sure if that was the import of the legislation it would pass unanimously in this body. But it is another attempt to use this legislation as an end run around State consumer protection legislation. That is what this bill is all about.

I urge adoption of the substitute and defeat of the bill.

Mr. Chairman, I rise in opposition to this bill and in support of the Dingell-Conyers-LaFalce-Gephardt substitute.

What we have here, Mr. Chairman, is a case of legislative hijacking. A bill intended to enhance the ease and security of electronic transactions has been commandeered. By a financial services industry that sees an opportunity to sweep aside a generation of state laws. Laws that enshrine such familiar and fundamental concepts as proper notice. Full disclosure. Informed consent. Truth in lending. Fair credit practices.

These laws have helped ensure that the ordinary citizen will not be taken advantage of by powerful commercial interests who have all the leverage. Who hold all the cards. And in so doing, these laws have helped maintain a thriving economy that depends on consumer confidence.

That is supposedly what this bill is about. Consumer confidence in electronic transactions. Yet ironically, by undermining state protections, this bill will erode consumer confidence. Not enhance it. If this bill becomes law, consumers will have fewer rights. And they will be less certain what rights they retain. Hardly a recipe for consumer confidence.

At our hearings, we were told that federal legislation was needed to ensure the validity of electronic agreements entered into by private parties until the states are able to adopt,

the Uniform Electronic Transactions Act. In other words, it was needed to fill the gap until the states could act.

But then the bill was hijacked. Instead of filling the gap, it preempts the field. It prohibits the states from enacting the uniform law—as California has recently done—in a way that preserves consumer protections. It even prohibits the states from RE-enacting those protections to the extent we supersede them.

How do people who only yesterday were waving the banner of ''states rights'' defend a bill that sets aside the will of the states in so cavalier a fashion?

They do so in the name of ''uniformity.'' yet it uniformity were all they were after, they would have been satisfied to let this bill sunset as the Uniform Act is adopted by each of the states over the coming months.

What the proponents of the bill really want is to arrest that process. To prevent the states from preserving consumer protection laws which they want to do away with. It is one thing to try to ensure the viability of electronic signatures, and I support that effort. But it is another to use this legislation as an ''end run'' around state consumer protection laws.

Apart from the policy considerations, it raises serious constitutional questions. Given the recent holdings of the Supreme Court regarding the limits of congressional power, I have serious doubts that we have the authority to preclude the states from re-enacting laws in an area of commercial activity that lies so squarely within their traditional sphere of competence.

We should do all we can to embrace and encourage the development of electronic commerce. But if that brave new digital world is to provide hospitable to human habitation, we must take with us the great advances in the law that have made this world habitable.

I am ready and willing to support a bill that does this, Mr. Chairman, but the current proposal falls too far short of the mark. That is why it is opposed by the Administration, and by every major consumer organization in the country.

I urge my colleagues to oppose the bill and support the substitute.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) has 5 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 3 minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

□ 1330

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding me this time. I will not take the entire 2 minutes. I had not anticipated speaking on behalf of the general debate, but I certainly do rise in strong support of this proposal.

I want to make it clear here that this is not anti-consumer, it is both pro-business and pro-consumer, it really does not denigrate or eliminate any consumer protections that are currently in law, and it goes beyond that. I particularly am a strong supporter of the Inslee amendment and would like to speak on that at the appropriate time.

I want to congratulate the chairman of the Committee on Commerce for his leadership here. This is excellent legislation. As a member of the Committee on Banking and Financial Services, I will look forward to continuing to work in the future on other aspects of e-commerce as it relates to more specific banking legislation.

I rise today in strong support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act.

The bill accomplishes the two major, and often conflicting, goals of being both Pro Business and Pro Consumer. As we have heard, millions of Americans are shopping via the Internet everyday. The growth in e-commerce is expected to explode in the next 2 years with U.S. Consumers spending billions on line by the year 2001. E-commerce is happening as we speak. We here in Congress should do everything we can to promote e-commerce. I believe H.R. 1714 strikes the right balance between encouraging the growth of e-commerce while including common sense consumer protections.

The bill is Pro Business because it ensures that Internet transactions have the same legal effect and recognition as paper transactions. This is accomplished by establishment of a federal law which recognizes e-signatures as having the same force and effect as an ink signature. In addition, required records and disclosures may be delivered electronically IF the Consumer ''opts in''.

The bill is Pro Consumer because it encourages the growth of e-commerce—which has led to lower prices, greater choice and round the clock availability. These developments are all Pro Consumer.

Later on we are going to consider the Inslee/Eshoo/Dooley/Moan/Roukema Amendment. This Amendment includes several provisions from H.R. 2626, the Electronic Disclosures Delivery Act of 1999, which I introduced on September 1st along with Mr. INSLEE and Mr. LAZIO. The Amendment is pro consumer because it provides the additional consumer protections such as (1) Customer ''opt in'' for electronic delivery specifically required, (2) clear requirements on review, retention and printing of documents and disclosures, (3) the ability of a Customer to ''opt out'' of electronic delivery at any time.

I thought these were good provisions when I introduced H.R. 2626. I thought they were good provisions when proposed before the Rules Committee, and that is why I cosponsored the Inslee Amendment. It clearly improves the Bill and we should approve the Inslee Amendment later on when we have the opportunity.

Mr. Chairman, this bill is an extremely good bill. I urge strong support for H.R. 1714.

Mr. DINGELL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the issue here is a very simple one. It is not about whether the contract may be signed electronically. Everyone here is in agreement that that is a good thing. It is about the notices which follow after that, notices of waste on a real estate contract, notice of failure to comply with requirements for insurance, failures of the electronic media to deliver.

An interesting thing to note would be that this proposal is going to come just in time, if it is signed into law, for the year 2K bug to bite. The question that has to be asked is what happens if the Internet provider is down and the individual does not get the notice. What happens if on that particular day there is a virus that contaminates the operation of the recipient or the sender, so the recipient never gets it. Look at the wide array of notices which are extremely important and which are protected in a wide array of State laws, notices of nonpayment of taxes, notices which would vitiate a mortgage, entitle the mortgagor to cancel or to foreclose. Those are things which would hurt the mortgagee.

I would ask my colleagues to understand that what we are trying to do here is not to stop electronic commerce or the signing of contracts electronically but, rather, to assure that a wider array of judgments are available to the purchaser and that he may then insist that he get, for very good reason, certain kinds of notices which he might view as being important. The mortgagor or the seller or the vendor under the contract has every right to ask that individual if he will then change the contract to waive those rights. But we are trying to protect historic rights that have always belonged to purchasers under written contracts under the law of the several States.

I would give Members just one last quote. Under Statement of Administration Policy, the administration makes this statement, and Members should be aware that they are probably looking at a veto here:

''The administration believes that en bloc amendments fall short of eliminating serious defects in H.R. 1714. The Secretaries of Commerce, Housing and Urban Development, and the Treasury will recommend the President veto H.R. 1714 with the en bloc amendments. For the reasons explained below and in the enclosed Statement of Administration Policy, the administration would support adoption of the Gephardt-Dingell-LaFalce-Conyers substitute.''

Let us try to pass something which will make progress, something which will protect consumers, something which will move forward electronic commerce but not something which affords enormous operation to hurt innocent purchasers around this country.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

This has been an interesting debate. First of all let me say that this bill came out of the Committee on Commerce unanimously August 5. We have worked with the minority. It was originally scheduled for October 18 on the floor. They asked for further consideration. We pulled it. And we worked. Everything was all in agreement. And then last Friday, the White House comes down here and gets a meeting with the Democrat leadership and all of a sudden this becomes a terrible bill. Nothing could be further from the truth. This is a thing to prevent this

legislation being adopted on Republicans' watch.

Let me give Members a list of the people who support this legislation:

IBM, Information Technology Association of America, Information Technology Industry Council, Microsoft, American Insurance Association, Alliance of American Insurers, American Council of Life Insurance, Council of Insurance Agents and Brokers, National Association of Mutual Insurance Companies, National Association of Surety Bond Producers, Reinsurance Association of America, Securities Industry Association, America Online, America Electronics Association, GTE, MCI WorldCom, Cable and Wireless, DLJ Direct, PanAm Sat, Telecommunications Industry Association, National Retail Federation, Charles Schwab, Fidelity, Ford Motor Credit, National Association of Manufacturers, AT&T, U.S. Chamber of Commerce, and the Chamber will score this bill; Investment Company Institute, Yahoo, Equifax, International Biometric Industry Association, Consumer Mortgage Coalition, Financial Services Roundtable, Sallie Mae, Apple Computer, Hewlett-Packard, American Bankers Association, Consumer Bankers Association, the New York Stock Exchange, Business Software Alliance.

This is a good bill. Nobody in this legislation is coerced to do anything. They have to agree. And, working with the minority, we say that if there is anything to do with eviction, foreclosure, that this is exempted, it is carved out of here, you cannot do it this way.

Mr. Chairman, this is a good bill. We had a great vote a week ago. Let us not go back on that. Let us move the legislation forward, go to conference with the Senate, and then send legislation to the President.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to H.R. 1714, the Electronic Signatures in Global and National Commerce Act.

No one can deny what an amazing effect the Internet and electronic commerce has had on national and global commerce. The Internet has allowed some businesses to flourish in a global marketplace in a way not possible by traditional means.

The remarkable opportunities which the Internet and electronic commerce provides needs to be protected by ensuring that electronic signatures and contracts are held as legally valid and binding. H.R. 1714, however, is not the best bill to accomplish this because it achieves the goal of validating electronic signatures and contracts at the expense of American consumers.

If H.R. 1714 becomes law, we can expect that many of our Nation's consumers will unknowingly ''click away'' their rights because this bill does not ensure that any and all notices to consumers about their rights and the consequences of electronically signing their names be either clear or conspicuous. This is fundamentally unfair to consumers, especially those who may not yet be familiar with the concepts of the Internet and electronic commerce.

I urge my colleagues to protect consumers and reject H.R. 1714.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). All time for general debate has expired.

In lieu of the amendments recommended by the Committees on Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD and numbered 1. That amendment shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1714

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 ''Electronic Signatures in Global and National Commerce Act''.

TITLE I—VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES FOR COMMERCE

SEC. 101. GENERAL RULE OF VALIDITY.

(a) GENERAL RULE.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce, notwithstanding any statute, regulation, or other rule of law, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied—

(1) on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record; or

(2) on the ground that the contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature.

(b) AUTONOMY OF PARTIES IN COMMERCE.—

(1) IN GENERAL.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce—

(A) the parties to such contract, agreement, or record may establish procedures or requirements regarding the use and acceptance of electronic records and electronic signatures acceptable to such parties;

(B) the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied because of the type or method of electronic record or electronic signature selected by the parties in establishing such procedures or requirements; and

(C) nothing in this section requires any party to use or accept electronic records or electronic signatures.

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has separately and affirmatively consented to the provision or availability of such record, or identified groups of records that include such record, as an electronic record; and

(ii) has not withdrawn such consent; and

(B) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

(c) RETENTION OF CONTRACTS, AGREEMENTS, AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract, agreement, or record be in writing or be retained, that requirement is met by retaining an electronic record of the information in the contract, agreement, or record that—

(A) accurately reflects the information set forth in the contract, agreement, or record after it was first generated in its final form as an electronic record; and

(B) remains accessible, for the period required by such statute, regulation, or rule of law, for later reference, transmission, and printing.

(2) EXCEPTION.—A requirement to retain a contract, agreement, or record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract, agreement, or record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract, agreement, or record to be provided, available, or retained in its original form, or provides consequences if the contract, agreement, or record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of all the information on the front and back of the check in accordance with paragraph (1).

SEC. 102. AUTHORITY TO ALTER OR SUPERSEDE GENERAL RULE.

(a) PROCEDURE TO ALTER OR SUPERSEDE.—Except as provided in subsection (b), a State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 if such statute, regulation, or rule of law—

(1)(A) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as reported to the State legislatures by the National Conference of Commissioners on Uniform State Laws; or

(B) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts, agreements, or records; and

(2) if enacted or adopted after the date of enactment of this Act, makes specific reference to this Act.

(b) LIMITATIONS ON ALTERATION OR SUPERSESSION.—A State statute, regulation, or other rule of law (including an insurance statute, regulation, or other rule of law), regardless of its date of enactment or adoption, that modifies, limits, or supersedes section 101 shall not be effective to the extent that such statute, regulation, or rule—

(1) discriminates in favor of or against a specific technology, process, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures;

(2) discriminates in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures;

(3) is based on procedures or requirements that are not specific or that are not publicly available; or

(4) is otherwise inconsistent with the provisions of this title.

(c) EXCEPTION.—Notwithstanding subsection (b), a State may, by statute, regulation, or rule of law enacted or adopted after the date of enactment of this Act, require

specific notices to be provided or made available in writing if such notices are necessary for the protection of the safety or health of an individual consumer. A consumer may not, pursuant to section 101(b)(2), consent to the provision or availability of such notice solely as an electronic record.

SEC. 103. SPECIFIC EXCLUSIONS.

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract, agreement, or record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law;

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A;

(4) any requirement by a Federal regulatory agency or self-regulatory organization that records be filed or maintained in a specified standard or standards (including a specified format or formats), except that nothing in this paragraph relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277);

(5) the Uniform Anatomical Gift Act; or

(6) the Uniform Health-Care Decisions Act.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) any contract, agreement, or record entered into between a party and a State agency if the State agency is not acting as a market participant in or affecting interstate commerce;

(2) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings; or

(3) any notice concerning—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual; or

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities).

SEC. 104. STUDY.

(a) FOLLOWUP STUDY.—Within 5 years after the date of enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall conduct an inquiry regarding any State statutes, regulations, or other rules of law enacted or adopted after such date of enactment pursuant to section 102(a), and the extent to which such statutes, regulations, and rules comply with section 102(b).

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 5-year period.

SEC. 105. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC RECORD.—The term ''electronic record'' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

(3) ELECTRONIC.—The term ''electronic'' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.

(4) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records in whole or in part without review by an individual at the time of the action or response.

(5) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) FEDERAL REGULATORY AGENCY.—The term ''Federal regulatory agency' means an agency, as that term is defined in section 552(f) of title 5, United States Code, that is authorized by Federal law to impose requirements by rule, regulation, order, or other legal instrument.

(7) SELF-REGULATORY ORGANIZATION.—The term ''self-regulatory organization'' means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

TITLE II—DEVELOPMENT AND ADOPTION OF ELECTRONIC SIGNATURE PRODUCTS AND SERVICES

SEC. 201. TREATMENT OF ELECTRONIC SIGNATURES IN INTERSTATE AND FOREIGN COMMERCE.

(a) INQUIRY REGARDING IMPEDIMENTS TO COMMERCE.—

(1) INQUIRIES REQUIRED.—Within 180 days after the date of the enactment of this Act, and biennially thereafter, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall complete an inquiry to—

(A) identify any domestic and foreign impediments to commerce in electronic signature products and services and the manners in which and extent to which such impediments inhibit the development of interstate and foreign commerce;

(B) identify constraints imposed by foreign nations or international organizations that constitute barriers to providers of electronic signature products or services; and

(C) identify the degree to which other nations and international organizations are complying with the principles in subsection (b)(2).

(2) SUBMISSION.—The Secretary shall submit a report to the Congress regarding the results of each such inquiry within 90 days after the conclusion of such inquiry. Such report shall include a description of the actions taken by the Secretary pursuant to subsection (b) of this section.

(b) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, including those identified in the inquiries under subsection (a) for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Free markets and self-regulation, rather than government standard-setting or rules, should govern the development and use of electronic records and electronic signatures.

(B) Neutrality and nondiscrimination should be observed among providers of and technologies for electronic records and electronic signatures.

(C) Parties to a transaction should be permitted to establish requirements regarding the use of electronic records and electronic signatures acceptable to such parties.

(D) Parties to a transaction—

(i) should be permitted to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced; and

(ii) should have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(E) Electronic records and electronic signatures in a form acceptable to the parties should not be denied legal effect, validity, or enforceability on the ground that they are not in writing.

(F) De jure or de facto imposition of standards on private industry through foreign adoption of regulations or policies with respect to electronic records and electronic signatures should be avoided.

(G) Paper-based obstacles to electronic transactions should be removed.

(c) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(d) PRIVACY.—Nothing in this section shall be construed to require the Secretary or the Assistant Secretary to take any action that would adversely affect the privacy of consumers.

(e) DEFINITIONS.—As used in this section, the terms ''electronic record'' and ''electronic signature'' have the meanings provided in section 104 of the Electronic Signatures in Global and National Commerce Act.

TITLE III—USE OF ELECTRONIC RECORDS AND SIGNATURES UNDER FEDERAL SECURITIES LAW

SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(h) REFERENCES TO WRITTEN RECORDS AND SIGNATURES.—

''(1) GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.—Except as otherwise provided in this subsection—

''(A) if a contract, agreement, or record (as defined in subsection (a)(37)) is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be in writing, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record;

''(B) if a contract, agreement, or record is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be signed, the legal effect, validity, or enforceability of such contract, agreement, or record shall not

be denied on the ground that such contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature; and

''(C) if a broker, dealer, transfer agent, investment adviser, or investment company enters into a contract or agreement with, or accepts a record from, a customer or other counterparty, such broker, dealer, transfer agent, investment adviser, or investment company may accept and rely upon an electronic signature on such contract, agreement, or record, and such electronic signature shall not be denied legal effect, validity, or enforceability because it is an electronic signature.

''(2) IMPLEMENTATION.—

''(A) REGULATIONS.—The Commission may prescribe such regulations as may be necessary to carry out this subsection consistent with the public interest and the protection of investors.

''(B) NONDISCRIMINATION.—The regulations prescribed by the Commission under subparagraph (A) shall not—

''(i) discriminate in favor of or against a specific technology, method, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; or

''(ii) discriminate in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures.

''(3) EXCEPTIONS.—Notwithstanding any other provision of this subsection—

''(A) the Commission, an appropriate regulatory agency, or a self-regulatory organization may require that records be filed or maintained in a specified standard or standards (including a specified format or formats) if the records are required to be submitted to the Commission, an appropriate regulatory agency, or a self-regulatory organization, respectively, or are required by the Commission, an appropriate regulatory agency, or a self-regulatory organization to be retained; and

''(B) the Commission may require that contracts, agreements, or records relating to purchases and sales, or establishing accounts for conducting purchases and sales, of penny stocks be manually signed, and may require such manual signatures with respect to transactions in similar securities if the Commission determines that such securities are susceptible to fraud and that such fraud would be deterred or prevented by requiring manual signatures.

''(4) RELATION TO OTHER LAW.—The provisions of this subsection apply in lieu of the provisions of title I of the Electronic Signatures in Global and National Commerce Act to a contract, agreement, or record (as defined in subsection (a)(37)) that is required by the securities laws.

''(5) SAVINGS PROVISION.—Nothing in this subsection applies to any rule or regulation under the securities laws (including a rule or regulation of a self-regulatory organization) that is in effect on the date of enactment of the Electronic Signatures in Global and National Commerce Act and that requires a contract, agreement, or record to be in writing, to be submitted or retained in original form, or to be in a specified standard or standards (including a specified format or formats).

''(6) DEFINITIONS.—As used in this subsection:

''(A) ELECTRONIC RECORD.—The term 'electronic record' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

''(B) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

''(C) ELECTRONIC.—The term 'electronic' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.''.

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in House Report 106–462. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 106–462.

AMENDMENT NO. 1 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. INSLEE:

In section 101(b), strike paragraph (2) and insert the following:

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has affirmatively consented, by means of a consent that is conspicuous and visually separate from other terms, to the provision or availability (whichever is required) of such record (or identified groups of records that include such record) as an electronic record, and has not withdrawn such consent;

(ii) prior to consenting, the consumer is provided with a statement of the hardware and software requirements for access to and retention of electronic records; and

(iii) the consumer affirmatively acknowledges, by means of an acknowledgement that is conspicuous and visually separate from other terms, that—

(I) the consumer has an obligation to notify the provider of electronic records of any change in the consumer's electronic mail address or other location to which the electronic records may be provided; and

(II) if the consumer withdraws consent, the consumer has the obligation to notify the provider of electronic records of the electronic mail address or other location to which the records may be provided; and

(B) the record is capable of review, retention, and printing by the recipient if accessed using the hardware and software specified in the statement under subparagraph (A)(ii) at the time of the consumer's consent; and

(C) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

At the end of section 101, add the following new subsections:

(d) ABILITY TO CONTEST SIGNATURES AND CHARGES.—Nothing in this section shall be construed to limit or otherwise affect the rights of any person to assert that an electronic signature is a forgery, is used without authority, or otherwise is invalid for reasons that would invalidate the effect of a signature in written form. The use or acceptance of an electronic record or electronic signature by a consumer shall not constitute a waiver of any substantive protections afforded consumers under the Consumer Credit Protection Act.

(e) SCOPE.—This Act is intended to clarify the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law. Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.

In section 102(c), strike ''safety or health of an individual consumer'' and insert ''public health or safety of consumers''.

In section 104, add at the end the following new subsection:

(c) ADDITIONAL STUDY OF DELIVERY.—Within 18 months after the date of enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 18-month period.

The CHAIRMAN pro tempore. Pursuant to House Resolution 366, the gentleman from Washington (Mr. INSLEE) and the gentleman from Michigan (Mr. CONYERS) each will control 15 minutes.

The Chair recognizes the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to tell Members what our goal was in drafting this amendment. Our goal basically is to assure an American's right to make the decision by themselves based on the information they have to receive information electronically and to form contracts electronically.

Our goal is based on the proposition something like this: If you read the Declaration of Independence, it reads just as well electronically as it does on a piece of paper. And when you receive information in an on-line transaction, if you want to purchase insurance, a car, a book, the information you are going to receive reads just as well electronically. Therefore, we have crafted an amendment that would assure that every consumer has a new right, and, that is, the right to decide they want to receive information electronically.

I want to point out several things about it. Number one, it makes sure that this is a decision made and has to

be made affirmatively by an American. They have to affirmatively take an action to disclose they want to do business electronically. Number two, and very importantly, this makes very clear that any requirement of any government in America to give any notice will still exist after the passage of this bill if this amendment prevails.

I want to read the applicable section. It reads:

> Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.

I read this because I have heard many other Members suggest that somehow consumers will lose the right to receive notifications. This is inaccurate. This amendment will assure that every notification a person is entitled to receive, they will still be entitled to receive.

Third, it makes abundantly clear, we added a provision that consumers have to be notified what hardware and software they need to receive this information so that they are not acting blindly. We have heard suggestions that somehow electronic commerce is inefficient, ineffective. I think we have to realize sometimes the mail gets eaten by the dog as well, or misplaced, and, in fact, if consumers want to do business electronically, they should be entitled to do so.

We have also, fifth, provided that the credit card rules, the limitations of liability, still apply in this context, if somebody steals your identity essentially.

And, sixth, we provide, and I think this is very important because I have heard some misinformation on the floor already in this regard. Where the law requires provision of a notice, where a business has to provide notice to a consumer, they will still be required to provide notice, not simply post it on a website.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, when do you have information? Ten years ago, I was in local government and we organized our court files electronically and allowed the sheriff to access those court files for jail management. I remember going over to talk to the then sheriff who had deputies handwriting the information down on pieces of paper off the screen.

I asked, ''Why are you doing this?'' He said, ''So we'll really have the information.''

Do you have the information when it is on the screen, on your hard drive, in your head, or when it is on a piece of paper? The answer is, in all of those cases. We are not changing any consumer law at all with this bill and with this amendment. What we are doing is allowing for the free flow of information on the Internet, so that we can have electronic commerce, so that information in the Information Age can flow.

I have heard many expressions really of anxiety by Members about the Information Age and the concept that you have information when it is electronic. Let me assure my colleagues that you do and consumers will be fully protected under the amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 3 minutes.

I want to start off by commending my friends that are with the gentleman from Washington (Mr. INSLEE) on his amendment. This is an important step forward. The problem is, it is still a half a loaf, and I appreciate the Democrats that are trying to improve it.

This amendment makes minor improvements in the underlying bill but, indeed, it makes it worse in several respects. That is why it is quite clear why financial services, industries and banks are supporting it and consumer groups are opposing it.

Here is why it is a backward step. It leaves to the courts to determine who bears the burden when an electronic disclosure notice is not received.

□ 1345

The bill does that. The Inslee amendment puts the burden squarely on the consumer's shoulders.

Mr. Chairman, H.R. 1714, the Bliley bill leaves it to the courts; the Inslee amendment leaves it to the consumer the responsibility of creating an affirmative obligation to notify a provider of a change of e-mail address.

Now, in addition, this will not be corrected by the Inslee amendment. No requirement that the consumer be told what legal rights he is waiving or to what types of records that is the notices, disclosures and statements, that the waiver applies to. Because both the bill and the amendment permit a consumer to waive writing requirements for groups, ''groups of records,'' and there is no requirement that the record be similar or relate to the same transaction. The consumer can, without any prior knowledge, waive all the future notices with one click.

This, I say to my colleagues, is the substance of what leads me to regretfully not be able to support the Inslee amendment. It does help in some respects, but in other respects, it is worse. For that reason I would urge that we think very carefully about this so-called improvement.

The amendment improves the opt-in by requiring it to be conspicuous and visually separate. But there is still no requirement that the consumer be told what legal rights he or she is waiving or what types of notices and disclosures the waiver applies to.

The Inslee amendment narrows the States' ability to reenact supplemental protective legislation for their citizens. This is not good. For that reason I ask that my colleagues critically evaluate this supposed improvement in the bill.

While I appreciate the efforts of my fellow Democrats to improve H.R. 1714, this amendment is merely an industry-drafted cosmetic fix that makes only minor improvements to the underlying bill, and indeed, makes it worse in several respects. Furthermore, it leaves unaddressed many fundamental problems of H.R. 1714.

It is therefore no surprise—and is quite telling, in fact—that this amendment is supported by the banks and financial services industries, but is opposed by the consumer groups.

The Inslee amendment is a step backwards for consumers in many ways. Unlike H.R. 1714, which leaves it to the courts to determine who bears the burden when an electronic disclosure or notice is not received, the Inslee amendment puts the burden squarely on consumers' shoulders by creating an affirmative obligation for consumers to notify a provider of a change of email address. The U.S. Postal Service has standardized procedures for address changes, forwarding mail, and returning mail to the sender that currently are not present in the on-line world. Without these real-world ''back-up'' mechanisms, this amendment simply creates a defense for merchant in cyberspace that it would not have in the physical world.

The Inslee amendment also is a step backward from H.R. 1714 because it takes away the requirement that when a contract is required by law to be in writing, the electronic record of the contract must: (1) accurately set forth the information in contract after it was first generated, and (2) remain accessible for later reference, transmission and printing. Under the amendment, these standards apply only where a law requires a record to be retained. This significantly undercuts the reach of H.R. 1714.

In addition, the Inslee amendment narrows the states' ability to reenact supplemental protective legislation for their citizens. Instead of allowing the states to enact laws for the safety or health of an individual consumer, the amendment permits the states to legislate only where it is necessary for the protection of ''public health or safety of consumers.'' Thus, if certain notices and disclosures are not for the benefit of the public health or safety and only benefit individual consumers—such as notices to individuals about changes in their insurance policies, or a specific consumer's late payment on his utilities—the state cannot enact or reenact supplemental laws for this purpose.

Furthermore, the Inslee amendment leaves in place many of the most troubling aspects of H.R. 1714. For instance, although the amendment improves the opt-in by making requiring it to be ''conspicuous'' and ''visually separate,'' there is still no requirement that the consumer be told what legal rights she is waiving or what types of notices and disclosures the waiver applies to. In addition, the consumer can still waive ''groups of records'' with one click, regardless of whether or not they are related to each other or if they are similar in nature.

The Inslee amendment also maintains the bill's broad preemption of state laws. In order for a state to avoid preemption by the federal statute, the Uniform Electronic Transactions Act, or UETA, must be consistent with the electronic contracts and records provisions of this bill. This does not give the states sufficient flexibility to exempt necessary state writing requirements. Ironically, even if a state adopted UETA without excepting any of its laws. The state would still be preempted by the federal law, because UETA does not provide for an

opt-in, and that would make the state law inconsistent with—and therefore preempted by—the federal law.

Another flaw with the Inslee amendment is that it does not address the regulatory and supervisory problems with H.R. 1714. Under this amendment, regulated industries such as the banking and insurance industries would still be relieved from their legal requirements to maintain paper records. How can a state insurance regulator determine if an insurance company is properly capitalized, or if it has the proper reinsurance it cannot access the company's electronic records, or if the regulator can not require that the company keep its records in a tamper-proof format?

I understand my colleagues' desire to improve H.R. 1714—because it needs much improvement. But the Inslee amendment just scratches the surface of what's needed to make the necessary improvements in H.R. 1714. Indeed, the amendment makes the bill worse in several respects.

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

Mr. INSLEE. Mr. Chairman, I would note that that click will waive no rights; it will simply indicate that notifications will be coming electronically rather than writing them in. A click will waive no rights under this amendment.

Mr. Chairman, I yield 1 minute and 40 seconds to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Washington (Mr. INSLEE) for yielding me this time.

I am very proud to be offering this amendment with him and several of my Democratic colleagues as well as the gentlewoman from New Jersey (Mrs. ROUKEMA).

First, let me just stipulate that there is not any mandate in this amendment that says to the consumers of America that they have to go on-line and use digital signatures. There is not a mandate. This is all about choices, but it does add the protections to the consumer if they so choose to exercise this.

This amendment that we bring before my colleagues today I believe cures some of the criticisms, many of the criticisms of the underlying bill. Quite simply, it ensures that consumers who choose to receive electronic records from their banks, their mortgage companies, or their on-line trading brokers will make this decision knowingly. The amendment gives consumers the ability to opt in to receive electronic records and requires that the consent be conspicuous and visually separate from other terms. In other words, consumers must agree to a statement that they will accept the records electronically. This statement cannot be buried in a morass of terms and conditions. It must be clear and separate.

Additionally and importantly, this amendment requires that prior to consenting, consumers must be provided with an explanation of how to access and retain electronic records. This is important because if a consumer cannot review, retain, and print an electronic record, that record is not considered valid.

I am very proud of this amendment. I believe that it makes the bill totally acceptable. This should not be a partisan issue. We should come together from both sides of the aisle, because it protects consumers and it allows electronic commerce to go forward. I urge support of this amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Banking and Financial Services.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Chairman, I think that almost everyone would favor the purposes of the primary bill before us today, and it is possible to achieve a good bill and a bipartisan bill. And, on the Senate side, Senator ABRAHAM, a Republican, Senator WYDEN, a Democrat, Senator LEAHY, a Democrat, and the administration have gotten together and basically they have come together in support of a good bill, and that is what the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS) and I are going to offer as a substitute.

The gentleman from Washington (Mr. INSLEE) and the gentlewoman from California (Ms. ESHOO) are attempting to deal with the Bliley bill, which the administration strongly opposes and said they would veto with an amendment. I know they are good faith, but I point out that the National Consumer Law Center, the Consumer Federation of America, the United Auto Workers, the Consumers Union, the U.S. Public Interest Research Groups, and the National Consumers League have drafted a letter today which they have sent out to each of us which says, ''The Inslee-Eshoo amendment is a cosmetic attempt to make a dangerous bill appear more palatable. Further, this amendment will make it more difficult for consumers to assert their rights under existing consumer protection laws.''

So this is cosmetically attractive, but dangerous because of that very fact.

Mr. INSLEE. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. DOOLEY).

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the underlying bill and also in strong support of the amendment offered by the gentleman from Washington (Mr. INSLEE), myself and a number of our colleagues.

This legislation is a step forward to trying to ensure that consumers and businesses have a better ability to conduct commerce over the Internet. This amendment that we are supporting today provides for added consumer protections. It ensures that every consumer will have to opt in in order to participate. It ensures that consumers will have to acknowledge the conditions of a contract. It also provides assurances that a consumer will have to acknowledge that they will have to notify the business or the entity that they might be doing business with if they change their e-mail.

This is not any different than what one would have to do with one's address at one's home if one is going to relocate.

Now, if we want to have people to have the benefits that the Internet can provide and e-commerce can provide, we have to understand that we are dealing with a different medium, and this amendment goes a long way to ensuring that consumers will have those protections, that they will have the notifications that are important for them to understand their responsibilities and obligations.

Mr. Chairman, I heard some folks earlier today talking in opposition to the underlying bill, but there are a lot of people out there that do not have a computer; there are a lot of people out there that do not have an e-mail address; there are a lot of people out there that do not know how to navigate the Web. Well, if we use that as a standard to preclude us from moving forward with digital signature, we are never going to get there. But we also have assured that any consumer that might not have a computer, that does not have e-mail, that they do not have to opt in to participate in a digital signature. We provide the consumer protections. This amendment is a good amendment; the underlying bill deserves passage.

Mr. CONYERS. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. BERMAN), a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment. While it makes some improvements in some parts of the base bill, it also in some areas actually goes backward. But I think the broader point is the point I would like to speak to.

We seem to be talking just totally by each other. No one here is opposed to the concept that we need to legislate a digital signature law so that people in places where there is now an obligation to enter into a writing-in contract can enter into a contract electronically and bind themselves to that through digital signatures along the standards of the bill. There is no dispute about that.

I hear my friend from Virginia speak in exciting and provocative terms about the new economy, the new elite, people who want the opportunity, they are governed by potentials and not their fears, and I say yes. But it is not a requirement to be an advocate of the new economy or to be a new Democrat to think that there are some people who will be caught in the transition and that maybe, where the Comptroller of the Currency decides that a particular bank should have a backup set

of records in writing because that might be the only place they can go to determine whether reserves are being kept adequately, or whether in a particular situation involving changes in an insurance policy, let us just validate that for this particular type of consumer whose, perhaps, adult children signed them on to the insurance policy electronically, we should validate it by the written contract, that we are going to just trample over these people in the name of doing something new and exciting.

Mr. Chairman, I do not have the arrogance to say that every single law that says that without regard to whom the consumer is, what the State of their mentality is, that we are going to wipe out some considered judgment by a regulator or by a State legislator, by a Federal legislator that in all circumstances, that is preempted.

The gentleman from Washington says his amendment waives no rights, but it does waive one right. By conscious decision, hopefully of a sophisticated and educated consumer, it waives the right to have the disclosures, the changes, the notices in writing. That is indisputable. His amendment waives that right. In most cases, that will be great. There might be a few cases where it is not great, and it is in those cases that I say let us be a little careful about just wiping out all of these laws.

Mr. INSLEE. Mr. Chairman, I yield 10 seconds to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I think it is important to point out that there is no waiver of notice in writing. All we are talking about is transmission of that writing and whether the writing is received electronically or on a piece of paper, it is in writing in both cases.

Mr. INSLEE. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Chairman, I rise in support of the Inslee amendment and in support of the underlying bill.

Everyone says we all agree, we are going to have digital signature, it is just a matter of the details. Unfortunately, the details that are being presented by the opponents of the Inslee amendment and of the Dingell amendment are such that one would, in practical effect, not be able to do digital signature. If, first of all, one does not have uniformity and one is doing something across State lines and one has 50 or maybe even 100 different rules and regulations for how it is going to be done, it makes it very, very difficult to do business in the electronic commerce world. That is what the Dingell amendment would do. That creates a huge problem for the bill.

Second of all, it requires that paper be done in addition to the digital signature. Well, if we are going to have to do a paper contract, what is the advantage of doing a digital contract? One merely has to duplicate oneself. Those two provisions basically mean that what the opponents of the Inslee amendment are doing is creating a situation where digital signature will not be a choice that any logical businessman will make. That is why we have to oppose it.

Two final points. Consumer protection is clearly protected in this bill. The sentence says this law changes in no way one's contractual protections under consumer protection laws. We are simply doing it digitally instead of by paper. We have the same protections.

Lastly, this well, if one goes on a computer it could get lost, the computer could blow up; paper notices get lost all of the time. If one moves and the notice is required to go by mail, many times these notices do not arrive. Whether it is paper or digital, there are challenges in making sure that all of the notices get there. I strongly submit that those challenges are no greater with digital signature than they are with paper, and we are stuck in a lost mindset here thinking that somehow, if it is not paper, it is not real. If we do not do this right, we will not have digital signature. The Inslee amendment does it right. Support it.

□ 1400

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to the amendment, Mr. Chairman. I recognize that there is an effort here to make this, as I said, palatable, but it remains indigestible. What we are doing here is we are force-feeding the States, force-feeding consumers this particular format in terms of how transactions and record will be eliminated.

Someone says, the electronic signatures, we are all for it, we can permit that, but we need this because we need to eliminate or give the possibility for people to accept notices and disclosures electronically, that is the only thing. But the heart and soul of most consumer laws are the absolute disclosure provisions. So once we go down this path, we have, for all intents and purposes, circumvented many of the consumer laws of the Federal and many at the State level.

This is not transactions initiated over the Internet, this could be someone at the door that we open the possibility of fraud and abuse to here, because someone at the door, when we get a cooling off period for not purchasing, we would sign it away. There is no assurance that they have Internet; electronic computer equipment or service. It is only one-third of the homes in this Nation have Internet, so these are not even just transactions. We open up that possibility.

We have tried mightily in terms of this particular provision, but we have gone one step forward and two back. The rule of holes is that when you are in a hole and you want to get out, quit digging, but this amendment digs in more. It tries to legitimatize what is inappropriate in this bill.

The fact of the matter is, look at where the consumer is. They are buying a home, they are buying a car. They are blinded by the fact of that new shiny Chevrolet or that wonderful new home that they are going to get. They are signing a whole bundle of papers. In the process of doing it, they sign the copy, disclosure and notification away with no assurance, and all the responsibility put back on the individual consumer on something that may be the most important transaction they make.

This vitiates the truth-in-lending, the real estate State Sales Practices Act. The Federal regulators are already working on the issue of electronic commerce and attempting to interface the rules and e-commerce. Instead of doing something for the consumer, they are taking away the options they have today.

Members are saying that the price of being active in this electronic signature bill and this electronic Internet world is that we are going to deny some of the rights people have today. We basically say, we will let you give up your rights. We should not do that, and we should know that individuals do not have fully informed consent, the mechanics, workers, blue collar workers or others getting minimum wage. They are not sitting in the halls of this Congress, they are not out there walking around in the lobbies, they need our help. Ironically this legislation protects the sophisticated financial institutions and Federal regulators.

We ought to be doing something for the consumer, like providing favorable options for them on privacy in the Internet. We are not doing for them what we did in the Financial Modernization Act. We are doing more harm in this act, with this particular provision and certainly the underlying measure.

When we talk about the provision in the financial modernization, we had balance in that bill. There is no balance in this bill. This policy in this bill is not necessary. These provisions on records are not necessary to make the electronic signature legitimate. We are undercutting consumer law. There is a bandwagon effect here in terms of the special interests that have annealed themselves to this popular electronic signature legislation in order to circumvent the very real decades of consumer law that have protected and serve the consumers and the people we represent. Vote ''no'' on this bill.

Mr. INSLEE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from the Garden State, New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Chairman, I have to say, as a member of the Committee on Banking and Financial Services, I rise in strong support of the amendment offered by the gentleman from Washington (Mr. INSLEE). I would like to identify myself as a cosponsor of that amendment.

I would also like to take exception to some of the loose rhetoric that I have heard on the floor today, and would like to speak to the specifics.

It seems to me that Congress and the regulators are overdue in playing a leadership role in updating many of the consumer protection laws to reflect the new technologies in electronic commerce that we see out there. This bill and this amendment takes a giant step toward that protection. It does not diminish in any way, as far as I can tell, the protections that consumers already have.

I want to be specific. The amendment is pro-consumer because it provides the additional consumer protections such as a clear, number one, customer opt-in for electronic delivery specifically is required, an opt-in. There are clear requirements on review, retention, and printing of documents and disclosures. Three, the ability of a customer to opt out is there for any customer at any time for the electronic delivery system.

I think that this is, as I said, not only a giant step, but it is also clearly defined, and I dismiss any of the loose rhetoric that acts as though we are taking something away. We are really building not only a firm foundation, but a giant step for consumers in this new electronic age.

Mr. Chairman, as a cosponsor, I rise today in strong support of the Inslee/Eshoo/Dooley/Moran/Roukema amendment. It is both Pro Business and Pro Consumer. It is common sense and will improve the bill.

Millions of consumers today routinely conduct business over the Internet, buying and selling a myriad of products and services from companies large and small, near and far. Many of these consumers engage in financial transactions—investing in stocks and bonds, checking account balances, transferring funds, applying for credit cards, and paying bills without leaving their homes. This explosion of online financial services offers great benefits. Nonetheless, the ability to offer many financial services, particularly loans and mortgages, would be enhanced if the banking laws were amended to clarify the rules governing the electronic delivery of financial services.

H.R. 1714 and the Inslee Amendment will clarify that electronic delivery of required consumer disclosures over the Internet is permissible as long as there are certain safeguards for consumers. This bill does not lessen the rights of consumers to receive required disclosures. In addition, it does not affect the content of any disclosure, including the timing, format and information to be provided. Furthermore, consumers would control which information could be sent to them electronically.

This legislation will assist the growth of online financial transactions and at the same time provide consumer protections. Online disclosures will provide consumers with a number of benefits:

Convenience and time-saving—Consumers can conduct transactions virtually anywhere and at any time, 7-days-a-week, 24-hours-a-day.

User friendly information—Legalistic jargon in on-line disclosure forms can be linked to plain-English definitions, making them much more readable and understandable. Consumers can electronically search documents rather than reading through reams of paper.

Enhanced services for under-served communities—Rural and urban communities will have enhanced access to financial services, even where brick and mortar branches are not available. In areas where residents cannot afford computers, libraries and schools provide on-line access.

Reduced cost—Electronic delivery of disclosures will cost less than providing the same information on paper or paying employees to handle face-to-face disclosures, Competition should encourage business to pass on those savings to consumers.

E-commerce is here. U.S. citizens are spending billions of dollars each year on-line. Congress and the regulators must play a leadership role in updating many of the consumer protection laws to reflect new technologies and establish a coherent legislative framework for the delivery of financial services through electronic commerce. This bill and this amendment takes a giant step toward that protection.

The Inslee/Eshoo/Dooley/Moran/Roukema Amendment includes several provisions from H.R. 2626, the Electronic Disclosures Delivery Act of 1999, which I introduced on September 1st along with Mr. INSLEE and Mr. LAZIO. The Amendment is pro consumer because it provides the additional consumer protections such as clear (1) Customer ''opt in'' for electronic delivery specifically required, (2) clear requirements on review, retention and printing of documents and disclosures, (3) the ability of a Customer to ''opt out'' of electronic delivery at any time.

I thought these were good provisions when I introduced H.R. 2626 with Mr. LAZIO and Mr. INSLEE. I thought they were good provisions when proposed before the Rules Committee, and that is why I cosponsored the Inslee Amendment. I believe the Inslee/Roukema Amendment protects consumers in a rational clearly defined common sense manner. It clearly improves the bill.

We should approve the Amendment and we should approve H.R. 1714.

Mr. CONYERS. Mr. Chairman, I yield 30 second to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I wonder if the gentlewoman from New Jersey would answer why the chairperson of the Subcommittee on Financial Institutions has had no hearings on the bill that she introduced, and dealing with the impact of this bill and her bill on the consumer protection laws?

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I will tell the gentleman exactly why; we got a little directed and focused on financial modernization.

Mr. LAFALCE. The gentlewoman was too busy to have hearings on these consumer protections.

Mrs. ROUKEMA. I was the author of the financial privacy and financial modernization. I find this completely consistent.

Mr. INSLEE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman from Washington (Mr. INSLEE) for yielding time to me.

Mr. Chairman, I am also an original sponsor of this amendment because it clarifies the consumer protections in H.R. 1714. I have been wanting to respond to my friend, the gentleman from California, not because I take issue with his characterization of my remarks as New Democrat in nature, but because he said that I am supporting this bill because it is new and exciting.

That is not why I am supporting this bill. It is because it is responsible and needed. The fact is that this bill provides a consistent and predictable national framework of rules governing the use of electronic signatures. This bill is needed. This bill was and is bipartisan. When the final vote is taken, it will be apparent that it is bipartisan. In fact the vote will be lopsided because it provides consumers and companies doing business on the Internet the legal certainty they need for electronic signatures, until all 50 States pass their own legislation on the legality of electronic signatures.

This amendment is important because it clarifies the consumer protections that were originally inlcuded in this bill. It makes it clear, as the prior speakers have said, that consumers are not required to use or accept electronic records or electronic signatures. There has to be mutual consent, and it expands the bill's requirement that consumers be able to receive and retain electronic records.

Mr. Chairman, this amendment is important because it says that opportunity for consent must be conspicuous and visually separate from all the other terms.

In addition, the consumer must be provided with an explanation of how to access and retain electronic records. Records will be received, retained, and printed. The fact is that consumers are going to be protected, but most importantly, they are going to have a choice. Today they do not have that uniformity, that predictability that comes with uniform national standards.

The Internet is national in nature. Our constituents need this legislation. Make it bipartisan and make it an expression of our unequivocal support for this productive, prosperous new economy.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House and the ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding time to me.

Mr. Chairman, I want to try and make clear what is at stake here.

There is no objection, I think, on the floor on the part of anyone, my good friend, the gentleman from Michigan, myself, or anybody else, to whether or not the contract is signed electronically. The question relates to notice of later events under that contract which can severely impact the purchaser, such as things which would trigger foreclosure of a mortgage on a house or an automobile, failure to keep up insurance, failure to prevent waste, failure to make payments.

It could happen for many reasons, such as year 2K. It could happen because of the situation which might occur, a hard drive might crash, or there might be any one of a number of other events, including a failure of the Internet provider or something of that sort, or the matter would just get lost in cyberspace.

There is nothing in anything that we are talking about here that would preclude an individual from giving up some right and waiving his right to that notice. But as an attorney of longstanding and as one who has dealt with foreclosures and the hardship that those kinds of events trigger, I think it is important to see to it that some who might not be as smart as some of the Internet whizzes and the computer whizzes and jocks that we have has the capability of protecting himself, because we are talking about things such as the purchase of stock, mortgages on homes, automobile purchases, major purchases of equipment, and things of that kind which could incur enormous obligations on the part of the purchaser.

I propose to support the amendment. It improves the bill. It does not improve the bill by addressing the fundamental, basic question of whether the consumer gets the necessary notices that are required by a long history of State law to apprise him that he is in danger under the contract of losing money or rights.

Mr. INSLEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to specifically note that the underlying bill excludes from its ambit notices of foreclosure, of acceleration of default on the home. Those are specifically excepted and should not be an issue.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I am not talking about notices of foreclosure, I am talking about notices that would trigger foreclosure, notice that the insurance has not been paid, that damage was being committed on the property, that a public nuisance is being committed on the property, or even a notice that the individual has failed to make a payment, which will trigger foreclosure.

Those are the kinds of notices that I am talking about, and they can severely, adversely impact the party.

Mr. INSLEE. Reclaiming my time, those will be given. Those notices will be given. In every case, the consumers electronically, if they want it electronically, and on paper if they want it on paper, those notices shall be given.

Mr. Chairman, I yield 1 minute to the gentleman from from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I think the gentleman's amendment improves the bill. I support it.

I would also like to point out, as was mentioned in the earlier debate, that what happens if the Y2K problem happens or the computer breaks down, the bill requires that a record sent be able to be retainable, printable, and transferrable. If the Internet is down this standard is not met, and thus, a consumer would not be liable.

I fully support this amendment. I urge its adoption, and I urge adoption of the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member of the Committee on the Judiciary for yielding time to me.

I thank the Members for their good intentions behind this effort. I happen to be a supporter of electronic commerce. I wish we could have done this in a bipartisan way.

Mr. Chairman, I do rise to support the incremental change that the Inslee amendment makes. It does not answer my concerns, however. I do believe that it is important for the consumers to conspicuously be able to opt in to give consent to know whether or not their business is going to be done in an electronic form, but I think what my good friends are missing and the reason I support the substitute is they are missing the fact that although we can lay out the long list of supporters of this bill, the responsibility of this Congress is to ensure that those voices which cannot be heard, those people needing to have information about the drugs they get out of the Food and Drug Administration, those young couples who are buying homes, still need to have the ability to understand the documents that they are utilizing.

Under the underlying bill, creditors could condition credit on a consumer's consent to receive all disclosures electronically. I do want us to all be hooked up to the Internet, but unfortunately, even as we go into the 21st century, all Americans are not. Can Members imagine being denied credit because they refuse or do not understand that they need to be hooked up to the Internet? Even in credit transactions involving the mortgage, people would have that problem.

Consider the FDA's responsibility to provide people with information about drugs, and those drugs that would conflict with others. Now we have the obligation of written information. Just imagine that that information will now be on the web page, and they leave people to their own devices, and they say, forget about the written materials, just go to the web page that most of those who are in certain levels in our country do not have.

□ 1415

The substitute, however, would sunset when a state enacted a uniform electronic transactions act which would provide for protections for our consumers.

The substitute also does not affect Federal laws or regulations, but instead gives Federal agencies 6 months to conduct a careful study of barriers to electronic transactions under Federal laws or regulations. The substitute also represents the E-commerce bill that is the most likely to be enacted into law, because it is a combination of Democrats and Republicans, House Members and Senate Members, who have come together.

Mr. Chairman, we are not against electronic commerce. I think that is the point that should be made. I have friends on the other side that I agree with, and friends over here that I agree with. But what my voice must be for are those individuals who do not know the Internet, who do not have access to computers, who are intimidated by some large business telling them they can not get credit or that home that they have been dreaming of because they will not consent to have their business done in an electronic process.

Mr. Chairman, let us make it a bipartisan bill and support the substitute and do the right thing for the American people.

Mr. INSLEE. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio (Mr. KASICH).

Mr. KASICH. Mr. Chairman, I would like to compliment the gentleman from Washington (Mr. INSLEE) for his amendment in terms of clarifying. But one thing we should not be confused about, this Congress nor government should stand in the way of what has been remarkable progress here at end of the 20th century moving into the 21st century. It has done an enormous amount of good for families, not just in America but across the globe. Let us clarify this but not hesitate to invest and have confidence in those people who are really moving us forward and empowering people.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. INSLEE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 418, noes 2, not voting 13, as follows:

[Roll No. 577]

AYES—418

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—2

Paul
Vento

NOT VOTING—13

Coburn
Condit
Dickey
Gephardt
Hutchinson
Largent
Matsui
Meek (FL)
Pascrell
Scarborough
Smith (TX)
Spence
Tiahrt

□ 1439

Mr. KUCINICH and Mr. WATT of North Carolina changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, on rollcall No. 577, I was unavoidably detained. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore (Mr. MILLER of Florida). It is now in order to consider amendment No. 2 printed in House Report 106–462.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 2 in the nature of a substitute offered by Mr. DINGELL:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Millennium Digital Commerce Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The growth of electronic commerce and electronic government transactions represent a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.

(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.

(3) A consistent legal foundation, across multiple jurisdictions, for electronic commerce will promote the growth of such transactions, and that such a foundation should be based upon a simple, technology neutral, nonregulatory, and market-based approach.

(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States also adopt a consistent, reasonable national baseline to eliminate obsolete barriers to electronic commerce such as undue paper and pen requirements, and further, that any such innovation should not unduly burden inter-jurisdictional commerce.

(5) To the extent State laws or regulations do not provide a consistent, reasonable national baseline or in fact create an undue burden to interstate commerce in the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline or eliminate said burden, but that absent such lack of a consistent, reasonable national baseline or such undue burdens, the best legal system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic transactions, and the public policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with State agencies.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than proscriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of contract formation;

(4) to facilitate the ability of private parties engaged in interstate transactions to agree among themselves on the appropriate

electronic signature technologies for their transactions; and

(5) to promote the development of a consistent national legal infrastructure necessary to support of electronic commerce at the Federal and State levels within areas of jurisdiction.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELECTRONIC.—The term ''electronic'' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

(3) ELECTRONIC RECORD.—The term ''electronic record'' means a record created, generated, sent, communicated, received, or stored by electronic means.

(4) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) GOVERNMENTAL AGENCY.—The term ''governmental agency'' means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State or of any county, municipality, or other political subdivision of a State.

(6) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) TRANSACTION.—The term ''transaction'' means an action or set of actions relating to the conduct of commerce, between 2 or more persons, neither of which is the United States Government, a State, or an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) UNIFORM ELECTRONIC TRANSACTIONS ACT.—The term ''Uniform Electronic Transactions Act'' means the Uniform Electronic Transactions Act as provided to State legislatures by the National Conference of Commissioners on Uniform State Law in the form or any substantially similar variation.

SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) IN GENERAL.—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) METHODS.—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) PRESENTATION OF CONTRACTS.—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that—

(1) can be retained by the parties for later reference; and

(2) can be used to prove the terms of the agreement.

(d) SPECIFIC EXCLUSIONS.—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than section 1–107 and 1–206, article 2, and article 2A.

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(3) Documents of title which are filed of record with a governmental unit until such time that a State or subdivision thereof chooses to accept filings electronically.

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(e) ELECTRONIC AGENTS.—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual's own behalf or as an agent, for another person.

(f) INSURANCE.—It is the specific intent of the Congress that this section apply to the business of insurance.

(g) APPLICATION IN UETA STATES.—This section does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law (UNCITRAL).

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) BARRIERS.—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or by electronic means. Such barriers include, but are not limited to, barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) REPORT TO CONGRESS.—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) INCLUDE FINDINGS IF NO RECOMMENDATIONS.—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefore, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

The CHAIRMAN pro tempore. Pursuant to House Resolution 366, the gentleman from Michigan (Mr. DINGELL) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, my old dad taught me to measure twice and cut once. He said that that was better carpentry, and he was right.

□ 1445

This amendment is essentially a bipartisan agreement reached in the Senate between Senators ABRAHAM and LEAHY. It is supported by the administration and it does not bear with it the threat of veto of the legislation without this amendment. It recognizes the validity of electronic signatures and contracts. It stays out of the more complicated questions and controversy associated with electronic records attendant on those contracts. It also avoids the problem of telling the contracting parties exactly what they do.

Here is what the substitute does do. It says a contract may not be denied legal effect or enforceability solely because of electronic signature or an electronic record was used in the formation. It allows parties to the transaction to determine appropriate electronic signature technologies for their transaction. It protects parties by requiring that the electronic record be delivered in the form that can be retained by the parties for later reference, and it can be used to prove the terms of the agreement. It sets forth principles to guide the Federal Government in expanding the use of electronic signatures in international transactions. It requires the Federal Government to study legal and regulatory barriers to electronic contracts.

Now, here is what it does not do. It does not hurt the ability of States to establish safeguards, such as consumer protection laws for electronic commerce. It does not wipe out the ability

of Federal regulators to eliminate abuses that may occur when electronic records are used. It does not wipe out State laws and regulations on the maintenance of records critical to protection of individual rights and claims. It does not preempt State and Federal records signature requirements, including those in tax laws and regulatory statutes.

We do not need to sacrifice consumer protections to facilitate electronic commerce. The concerns that I pointed out earlier are avoided. Electronic commerce will go forward, the parties will define the terms under which they will function, State laws will be protected, consumers will be protected, and entrepreneurs on the Internet will also be protected. And consumers will know that they have the means to protect themselves on terms of contracts in which they enter.

Mr. Chairman, may I inquire as to how much time I have consumed?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Michigan (Mr. DINGELL) has used 2½ minutes and will have 12½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does the gentleman from Virginia (Mr. BLILEY) seek the time in opposition?

Mr. BLILEY. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Virginia is recognized for 15 minutes.

Mr. BLILEY. Mr. Chairman, I yield myself 5½ minutes, and I rise in opposition to the substitute offered by the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), and the gentleman from New York (Mr. LAFALCE).

Just last week the House leadership and the administration pulled out all the stops to defeat H.R. 1714 when it was considered under suspension. In spite of their opposition, we fell just a few votes shy of a two-thirds majority. Just this past week an amazing conversion has taken place. Not only has the majority leadership stopped opposing electronic signature legislation, but it now supports the concept of providing legal validity to electronic signatures, and even went so far as to introduce a bill, H.R. 3220.

I commend my colleagues for their conversion and for recognizing the importance of this Congress approving electronic signature legislation. Unfortunately, their amendment, as the old saying goes, is a day late and a dollar short. The amendment only provides for electronic signatures on contracts and is, thus, substantially narrower than 1714. The amendment does not provide for the use or acceptance of electronic records, such as warranties, notices of or disclosures in electronic form.

The offerers of this amendment have leveled charges that the inclusion of records in H.R. 1714 would bring harm to consumers. Such a charge is completely false. H.R. 1714 contains important provisions protecting consumers who choose to accept an electronic document. This makes H.R. 1714 a broader bill, covering a wide range of electronic commerce transactions. Indeed, we just passed an amendment to improve this bill dealing with records by a vote of 418 to 2. Why would we want to strike the provision now?

Coupled with the records provision in H.R. 1714 are key consumer protections. In short, the key consumer protections are an opt-in system for consumers who want to accept electronic documents; standards to ensure that electronic documents are accurate and can be printed for use for future reference, and a requirement that key notices, such as termination of a utility service, cancellation of health insurance or life insurance, and foreclosure or eviction must still be delivered in writing.

The amendment before us also fails to address the need for uniformity in electronic signature laws. Currently, Mr. Chairman, 44 States have enacted some sort of electronic signature law. However, all 44 are different and many are inconsistent. With such a patchwork of differing laws, electronic commerce is nearly impossible. This amendment will only perpetuate that patchwork of laws by allowing States to enact any law, any law, regulating electronic signatures, no matter how nonuniform or how inconsistent with the laws of other States.

In contrast, H.R. 1714 allows States to enact a uniform electronic signature law provided that it meets minimum standards consistent with promoting electronic commerce. Two of the key principles are that State laws must be technology neutral and that States cannot limit the offering of electronic signature services to specific types of businesses. H.R. 1714 will encourage States to enact uniform laws while ensuring that States do not inhibit interstate commerce.

In addition, the amendment does not fully address the concerns I have about the use and acceptance of electronic signatures internationally. As other speakers have pointed out, some nations have enacted or are proposing electronic signature legislation that would be harmful to American interests. Title II of H.R. 1714 provides guidance to the Secretary of Commerce to work against any barriers to promote American principles in this area.

I would also like to point out that H.R. 1714 has been the subject of long and substantial negotiations with the minority. Prior to its consideration at the subcommittee and full committee level, we engaged in lengthy negotiations with the minority. The substitute amendments offered in committee by the gentleman from Ohio (Mr. OXLEY), the gentleman from Louisiana (Mr. TAUZIN), and myself contain important provisions that enjoyed bipartisan support. In fact, H.R. 1714 was approved through two subcommittees and the full committee by a voice vote.

We are also hearing that we should support this amendment because it is identical to the compromise legislation that has been agreed to in the other body. First, if such a compromise has been reached, it certainly has not been cleared for floor consideration. I think it is premature to refer to this as the so-called compromise until it is voted on and approved by the full committee of the other body.

Second, I am surprised to hear my colleagues say that we should merely accept the work of the other body without thoroughly considering this issue in the House. We should not blindly accept any legislation merely because the other body has supposedly reached a compromise on the text of a bill.

I am pleased to see that many of my colleagues from across the aisle have seen the light and decided to support rather than oppose electronic signature legislation. Unfortunately, their amendment falls far short of what is needed to promote electronic commerce.

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

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Mr. Chairman, I do not believe there is a representative in this body who does not favor electronic signatures. That is not the issue before us. The issue before us is should we pass Federal legislation that, A, preempts consumer rights; and, B, preempts States rights. I think the answer to that is no.

So there is another question. Why not this substitute? Why not this substitute that the administration favors, that is the agreed-upon compromise at least between Senator ABRAHAM, the chairman of the relevant Judiciary Subcommittee in the Senate, and Senator WYDEN and Senator LEAHY?

With respect to consumer rights, every consumer group believes that we must pass this substitute in order to keep the consumer protections that are presently in existing law. Industry, the Microsofts, the Yahoos of this world, would embrace the substitute if it were to be before the President for his signature. It is just that if they can get a better bill that preempts consumer rights, why not?

I remember when I first studied law, the Uniform Commercial Code was to be adopted by the States. Nobody suggested that because contracts are interstate in nature there should be a Federal law preempting the ability of States to adopt the Uniform Commercial Code sometime, with a little change here or a little change there, and that is how it has evolved.

The present bill that is before us would preempt any State law unless it

is fully consistent with the Federal bill. In other words, it preempts it totally. The substitute would pass this legislation, protect the consumer, but also protect the abilities to enact consumer protections that might be even greater. I think that is something we want to preserve.

We will get the signature of the President on the substitute. It is probably going to be the virtual identical bill that passes the Senate. Why not vote for this substitute, get a law, and get the law passed immediately?

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I rise in opposition to the substitute. I do not support the substitute because it fails to simplify, clarify, and modernize the law governing electronic commerce. It fails to promote uniformity of law among the States, and it fails to advance American interests worldwide by promoting a uniform legal regime addressing the use of electronic and similar technological means of effecting and performing commercial and governmental transactions.

The substitute will not accomplish what should be the basic objective of any legislation on this subject; that is, bringing legal certainty to electronic transactions in commerce. The substitute fails in this regard because, instead of promoting uniformity of law among the States, it will lead to the balkanization of applicable law. This will lead to greater uncertainty.

Balkanization will occur because, even with its most narrow scope, the substitute does not apply to States where the Uniform Electronic Transactions Act, UETA, is adopted in whole or any substantially similar variation. Between Section 3(b)(5) of UETA, which permits a State to exclude any of its laws from the application of UETA, and the substitute's substantially similar variation language, a State is completely free to institute its own electronic commerce laws regardless of such laws' effect on interstate commerce.

That is exactly what happened in California, the first State to adopt UETA. Relying on Section 3(b)(5) of the UETA, better known in some circles UETA's black hole, California excluded many laws from the application of UETA's principles. Those laws include most sections of the following California codes: Uniform Commercial Code, the Business and Professions Code, the Civil Code, the Financial Code, the Insurance Code, Public Utilities Code, and the Vehicle Code.

If every State was to take California's approach, the effect would be to further remove legal certainty. Rather, 50 separate legal regimes may arise governing electronic transactions in commerce. This outcome is counterproductive and unacceptable. I therefore urge my colleagues on both sides of the aisle to vote ''no'' on the substitute.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

My colleagues, this substitute is just what we need. It has come not a moment too soon, because I think we can now bring a marriage to the rights of consumers and the high-tech necessities of e-signature. It satisfies the need of the high-tech community by recognizing the validity of the electronic signatures in contracts, but it does not go as far as the base bill in getting into the controversial issue of other electronic records that might arise from electronic contract formation.

□ 1500

In other words, this steers a midcourse. It has a counterpart in the United States Senate. And it also has the assurance that the President will sign it into law.

So I am asking my colleagues, please, if we are supporting e-signatures and want to move high tech forward, here is the substitute that we can do this by.

The substitute deals only with the formation of electronic contracts and not other types of records. It does not undermine the important consumer protection laws. For example, regulations implementing the Truth in Lending Act require creditors to provide consumers with periodic statements that include information essential to a consumer in managing a credit card account.

Now, this cannot be accomplished unless we have the substitute. Creditors could request on a consumer's consent to receive all disclosures electronically under H.R. 1714. That is exactly what we are trying to make the distinction between the substitute and the base bill. Please support this substitute.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in opposition to this substitute.

Mr. Chairman, members of the committee, the substitute, if adopted, will rob this body of one of its rare opportunities to do good not only by our generation of Americans but by generations yet unborn.

We are about to enter a new millennium that, in large measure, is going to be governed by the enormous possibilities of not only the current Internet as we know it but as broadband, high-speed, always-on, always-available, supercontent-rich, broadband Internet services that are going to merge with television and provide us with new means of communicating and entertaining ourselves and indeed conducting electronic commerce across the span of the globe. It is going to make a smaller world and make possible enormous opportunity for citizens of this country and citizens of the word.

But in order for that to flourish, the legal rules that are to govern electronic commerce ought to be made clear. The bill does that.

The problem with the substitute is that it limits the bill only to those matters dealing with the formation of an electronic contract.

Now, in the earlier discussions, I tried to point out to my colleagues that many things that happen in electronic commerce do not involve the formation of a contract. The best example is when we write a check and that check has to be physically delivered by the bank to the bank of the recipient to whom we are sending the money. Just the physical transfer of all those checks, all that paperwork, costs consumers in America $4 billion a year just moving that paper around.

The substitute would do nothing to provide for digital signature in the electronic commerce of transferring money around in the form of payments and checks.

I urge that this substitute be defeated and we stick with the main body of the bill.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. WEINER), a member of the Committee on the Judiciary.

Mr. WEINER. Mr. Chairman, I rise in support of the amendment and the substitute being offered by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS) and others. I would appeal to my colleagues on perhaps a different level than this issue has been debated for some time.

We still have relatively small numbers of American citizens participating in Internet commerce, but that number continues to rise almost exponentially each year. And the reason for that rise in participation in the Internet commerce world is people are developing more confidence. Each time they go make a purchase and they get their product and their credit card number is not stolen and their information not shopped around, people are more likely to come back in future years to partake in that activity again.

That is why it is so absolutely important during this period when Internet commerce is growing that we do everything we can to reassure consumers and reassure those in the States that when they pass laws that they are going to be protected. The substitute adheres to the most stringent consumer protection while still allowing digital signatures.

For those of my colleagues who are like me who on some level do believe that the banking community and the insurance and financial services community should have easier access to this world, I believe we have to do this in a thoughtful way while preserving consumers' rights and, of course, while preserving the rights of States and localities to do what they need to do to reassure those who do partake in the Internet commerce that they will be safe in doing so.

The substitute does that. It does not jeopardize the basic things that the sponsor of the bill would like to do. I urge a yes vote on the substitute.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Chairman, I rise in opposition to the substitute offered by my good friend, the gentleman from Michigan (Mr. DINGELL).

As I said in my statement in supporting the underlying bill, we will do irreparable harm to the future of electronic commerce if we are unable to provide the basis for uniformity and legal certainty. And, indeed, that is really what this legislation is all about.

Those of us who study law understood that the Uniform Commercial Code really for the first time turned loose this great engine of economic opportunity and contracts throughout our 50 States when we had some degree of certainty when we are dealing with the Uniform Commercial Code.

In many ways, this legislation sponsored by our good friend, the chairman of the Committee on Commerce, is a natural consequence of following along with the Uniform Commercial Code, but we are doing it as it relates to electronic commerce. Electronic commerce is that natural consequence of what we are doing. So, essentially, that is really what this bill is all about.

The substitute amendment only provides legal certainty if the transaction was conducted as a result of a contract. And indeed, a lot of commerce takes place without formal contracts. And that is what really this legislation is all about.

This substitute, I would tell my good friend from Michigan, is over regulatory, it is industrial policy legislation that is contrary to what electronic commerce is really all about.

Mr. Chairman, the substitute amendment is simply a failure in regards to trusting people who are becoming more and more sophisticated in dealing with electronic commerce and more and more feeling comfortable with what is happening out there in the marketplace. This would be a huge step backwards in the name of consumer protection, when in fact it is quite the opposite and trusts government and trusts regulations and trusts bureaucrats far more than we trust the consumer in making these very important decisions in the marketplace.

So, for that reason, I would ask the substitute be defeated.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, the gentleman from Ohio (Mr. OXLEY) made reference to the Uniform Commercial Code bringing uniformity. I point out that it was not by Federal legislation; it was by the adoption of the individual States. We retain States' rights.

There is such a thing as the Uniform Electronic Transactions Act. The National Conference of State Legislators wants the individual States to adopt that.

Now the issue is not whether we should adopt UETA on a Federal level, because we are not doing that. We are adopting it with some changes here, some changes there. What changes are we making? Those that don't benefit the consumers.

We are also saying to the States that they can pass whatever law they want, but it cannot in any way be inconsistent with what we pass, which is not the UETA.

Support the substitute. Defeat the main bill. Because if it goes before the President for his signature as it is before the House right now, it will be vetoed. The substitute will be signed.

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this bill in its original form passed from the Committee on Commerce unanimously. Now, what happened between now and then is really very interesting. The bill has been changed. The Members on the minority side consulted extensively with our good friend, the chairman of the committee, and we were negotiating with him; and there were a number of agreements made to change the bill to make it still more acceptable and more workable.

But then something funny happened on the way to the floor. The distinguished gentleman from Virginia, or somebody else, all of a sudden decided they are going to put the bill on the floor, and they decided they were going to terminate the negotiations without any notice to the minority.

They then took the step of making some significant changes in the bill. It is not the bill that came out of the Committee on Commerce to which the minority objects. We will be happy to vote for that right this minute. But what we are confronted with here is the unfortunate situation where our dear friends on the majority side have changed the bill with no notice, and it is quite different than the original bill.

Now, what is the basic objection to the bill? Let us try and understand to what does the minority really object.

The minority objects not to the idea that we should authorize under law a uniform system of recognizing the electronic signature of contracts. What is objected to here is something quite different, and that is that all of the matters which are associated with the contract and with contracting are with one swoop of the pen or one click of the computer changed so that they immediately go into force and that no right on the part of the individual who contracts remains intact after the original electronic signature has taken place.

Now, what can happen? A number of matters of notice come electronically. They are not in hard copy and in writing. The right of the contracting parties to say but certain other things have to be under signature and on paper in the conventional fashion as required by existing State law and by even things going back to common law and ordinary business practices and transactions are no longer permitted. Those are done once they have made the initial electronic contracts by a further electronic transaction.

Now, what is wrong with that? First of all, the hard drive may crash. Second of all, the Y2K bug may strike. Third of all, these notices may get lost in cyberspace. The individual may do a bad job of notifying the other party of an address change. Or the computer may crash. Or any of many things may transpire. The parties cannot even agree to these questions amongst themselves. That is wrong.

If we want to go forward, let us proceed and go forward on the bill that was adopted by the Committee on Commerce. Let us adopt this, which allows everything that the original legislation would have done and which was supported by both sides, majority and minority. Let us proceed in that fashion.

I see no benefit to moving forward with a bill which is so strongly objected to, which is not in the Senate language, and which is threatened with a veto by the President.

All I am suggesting is that they listen to the words of my old dad. When we are going to make this size of massive change, do it sensibly. Know what we are accomplishing. As my dad used to warn me when I was doing carpentry, he would say, ''Measure twice. Cut once. Be careful.''

That is what I am suggesting to this body. Measure twice. Cut once. Adopt the amendment. Get the bill signed. And then let us proceed forward to such other matters as may be required.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Virginia (Mr. BLILEY) has 3½ minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 2½ minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in opposition to the substitute. Again, with great respect to the ranking member from the other side, I rise in opposition.

I do so because the substitute fails in its own objective of eliminating barriers to electronic commerce by recognizing the validity of electronic signatures and contracts.

The fact is that the substitute does very little to remove barriers that result from the legal uncertainty associated with electronic signatures and contracts.

Actually, the substitute further exacerbates the uncertainty associated with the legal effect and enforceability

of electronic mediums such as electronic contracts, agreements, signatures, and records.

□ 1515

Under the substitute, electronic signatures and records will enjoy legal effect and enforceability only if they are used in the formation of an electronic contract. Thus, an electronic signature or record is not accorded legal validity unless used in the context of contract formation. The net positive effect of the substitute on e-commerce is minimal at best. Moreover, as the substitute enables a State to exclude any of its laws from the application of the substitute's rule, even that minimal positive effect is at risk of further diminishment. Still another disconcerting fact is that permitting a State to exclude any or all of its laws, the substitute actually undermines the growth of electronic commerce by exacerbating uncertainty by codifying that uncertainty in Federal law.

The simple fact is that the substitute fails to facilitate and promote electronic commerce by validating and authorizing the use of electronic contracts, agreements, records and signatures. And resultantly, it fails to promote public confidence in the validity, integrity and reliability of electronic commerce. H.R. 3220 may actually hinder the development of legal and business infrastructure necessary to implement electronic commerce and therefore retard growth in e-commerce.

Mr. Chairman, I rise in support of the underlying bill and in opposition to the substitute.

Mr. DINGELL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have here a Floor Alert from the National Conference of State Legislatures, Office of State-Federal Relations, in which they point out that the substitute offered by my friends and colleagues and me will accomplish the purposes of ensuring the proper recognition of electronic signatures without trampling on the rights of consumers and without engaging in the completion of legislation which will be opposed and vetoed by the administration.

Our proposal here is fair. There is no significant trampling on State laws. There is a piece of legislation which will be accepted by the administration and which will protect the rights of consumers. Messages which would be transported in cyberspace and perhaps lost to the detriment of consumers who might find as a result of that foreclosures of mortgages and other hurtful actions by the seller will not be occurring.

I think this is a sensible way to proceed. Let us know what we are doing. We embarked upon this process in the idea that we would have a bill which would approve electronic signatures. The original committee bill did that. Declarations were festooned upon the committee bill. This amendment gives all of the rights to the parties that they want. An individual to that contract may waive contract rights to carry the matter more far and further forward, but this proposal that we confront and seek to amend will impose upon innocent persons conditions which will only be understood by lawyers and experts in electronic matters.

Be fair to your constituents and to the people. Allow them to proceed slowly into the time of cyberspace. Do not put them at risk because all of a sudden they are going to find to their vast surprise, somewhere hidden in a contract which they had signed electronically are a waiver of a whole plethora of rights that are very important to them.

Accept the amendment. Vote for it. And in failing that, reject the bill. It is not in the interests of your constituents.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

I again rise in opposition to this amendment. Records are important to add to this, it is voluntary, and we have been into that over and over.

In addition to that, what this amendment would do would be to allow States to enact any kind of legislation they want on this subject, and 44 States have already acted. There is a wide variety of difference between the 44 States. The one thing about electronic commerce, it is certainly interstate commerce and that has always been reserved to the Congress.

I would hope that we would reject this amendment and adopt the underlying bill. I would like to point out that the gentleman from Michigan (Mr. CONYERS) is a cosponsor of H.R. 2626, a bill that allows electronic delivery of consumer disclosures under a variety of banking laws, including the Truth-in-Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Real Estate Settlement Act, and yet we have the gentleman opposing the inclusion of records in H.R. 1714. Passing strange.

I urge the defeat of this amendment and the adoption of the underlying bill.

The CHAIRMAN pro tempore (Mr. LATOURETTE). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 278, not voting 29, as follows:

[Roll No. 578]

AYES—126

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Baldwin
Barrett (WI)
Becerra
Berman
Blagojevich
Bonior
Borski
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Clayton
Clyburn
Conyers
Costello
Coyne
Danner
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doyle
Duncan
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Hoyer
Jackson (IL)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Menendez
Miller, George
Mink
Moakley
Mollohan
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Paul
Phelps
Pomeroy
Rahall
Rangel
Reyes
Rivers
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Slaughter
Smith (MI)
Spratt
Stark
Strickland
Stupak
Tierney
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Wise
Woolsey
Wynn

NOES—278

Aderholt
Archer
Armey
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth-Hage
Clement
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Doggett
Dooley
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kind (WI)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Larson
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Minge
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pease

Pelosi	Schaffer	Taylor (NC)
Peterson (MN)	Sensenbrenner	Terry
Peterson (PA)	Sessions	Thomas
Petri	Shadegg	Thompson (CA)
Pickering	Shaw	Thornberry
Pickett	Shays	Thune
Pitts	Sherman	Thurman
Pombo	Sherwood	Tiahrt
Porter	Shimkus	Toomey
Portman	Shows	Traficant
Price (NC)	Shuster	Udall (CO)
Pryce (OH)	Simpson	Udall (NM)
Quinn	Sisisky	Upton
Radanovich	Skeen	Vitter
Ramstad	Skelton	Walden
Regula	Smith (NJ)	Walsh
Reynolds	Smith (WA)	Wamp
Riley	Souder	Watkins
Roemer	Spence	Watts (OK)
Rogers	Stabenow	Weldon (FL)
Rohrabacher	Stearns	Weldon (PA)
Ros-Lehtinen	Stenholm	Weller
Roukema	Stump	Weygand
Royce	Sununu	Whitfield
Ryan (WI)	Sweeney	Wicker
Ryun (KS)	Talent	Wilson
Salmon	Tancredo	Wolf
Sanchez	Tanner	Wu
Sandlin	Tauscher	Young (AK)
Sanford	Tauzin	Young (FL)
Saxton	Taylor (MS)	

NOT VOTING—29

Berry	Jefferson	Owens
Carson	Johnson, E. B.	Pascrell
Clay	Jones (OH)	Payne
Coburn	King (NY)	Rodriguez
Cummings	Largent	Rogan
Davis (IL)	Matsui	Scarborough
Dickey	Meek (FL)	Smith (TX)
Gephardt	Meeks (NY)	Snyder
Hutchinson	Millender-McDonald	Thompson (MS)
Jackson-Lee (TX)	Morella	

□ 1547

Messrs. REGULA, WEYGAND, GEJDENSON, SCHAFFER, SHOWS, and HEFLEY, Mrs. CHENOWETH-HAGE, and Mrs. THURMAN changed their vote from ''aye'' to ''no.''

Mr. WEXLER and Mr. SPRATT changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BERRY. Mr. Speaker, I was unavoidably detained for rollcall vote 578. Had I been present, I would had voted "yes" on rollcall vote number 578.

Stated against:

Mr. ROGAN. Mr. Chairman, on rollcall No. 578, I was attending the Little Rock Nine Congressional Medal of Honor Ceremony at the White House. Had I been present, I would have voted "no."

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce, pursuant to House Resolution 366, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on passage of the bill are postponed until later today.

CONFERENCE REPORT ON H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. GOSS. Mr. Speaker, pursuant to the unanimous consent agreement of earlier today, I call up the conference report on the House bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, November 5, 1999, at page H. 11630).

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentleman from California (Mr. DIXON) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. GOSS).

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

Mr. Speaker, I obviously rise in strong support of the conference report to accompany H.R. 1555, the Intelligence Authorization Act for Fiscal Year 2000.

Mr. Speaker, in H.R. 1555 we begin the funding for the intelligence community of the next millennium. That, Mr. Speaker, is a most useful perspective for what we have tried to do in our conference report. How can we adapt the tools and skills of the Cold War to meet the challenges of the 21st century? These are new times. We need new ways to approach them.

Underlying that question is how, and in some cases whether, we plan to meet those challenges. How we define our interests, Mr. Speaker, will depend on how we define ourselves. What kind of country will we be in the next century? In 2020, when my grandchildren are grown, what will the American flag mean to them and to people around the world?

In the classified schedule of authorizations in our conference report, we frame a preliminary answer to these questions. In that report, Mr. Speaker, we bring forward the basic tools and skills of the Cold War to bear on the new threats of the next century: the international drug cartels that bring poison into our cities, the elusive conspiracies that put the pieces of nuclear weapons into the hands of rogue leaders, and the shadowy networks that want to bomb our buildings overseas and here at home.

We will also need to use these tools and skills to meet new and unanticipated challenges that will arise in the coming years. Synthetic pharmaceuticals, genetic terrorists? I cannot know what threats will face my grandchildren in the year 2020 as Americans, but I can tell the Members what intelligence tools and skills will be necessary to meet those threats.

That is our job. We may not know the who, In other words, but we clearly know the how. We have learned that, and now we have to provide for it. In our conference report, Mr. Speaker, we continue to focus on this, how we will meet the threats and the challenges of the future, which is indeed upon us.

We will need more human intelligence or HUMINT, as we call it. Over the past year we have had to understand and to act upon crises in Belgrade, Nairobi, Dar es Salaam, East Timor, southern Colombia, and a whole host of other hard-to-pronounce places. In each case, policymakers need more HUMINT on the plans and the intentions of the rogue leaders, dissidents, terrorists, guerillas, and traffickers involved in these crises.

Where will the crises of the year 2000 arise, Kabul, Kinshasa, Lagos? I do not know, but they will be out there, and wherever they do arise our policymakers will need intelligence officers on the ground to collect HUMINT on the plans and intentions of those involved.

For that reason, Mr. Speaker, our conference report continues the rebuilding of our HUMINT capabilities around the world. No surprises is the right way to go.

We will continue to need signals intelligence, or SIGINT, as it is called. As in the past, our ability to collect SIGINT has helped to protect our shores from cocaine and our citizens from terrorists. That ability, however, is threatened in a fundamental way by digital technologies.

□ 1600

For that reason, Mr. Speaker, our conference report continues the recapitalization of our SIGINT capability.

This is a huge undertaking and an extraordinarily significant one.

We must improve the processing of imagery intelligence, or IMINT as it is called. Our ability to collect imagery has accelerated at lightning speed, but our ability to process imagery remains at a crawl. Collection and processing, however, are two halves of one whole. They must work together.

At present, the combination of collection and processing and imagery is a Ferrari welded to a Ford Falcon. That combination simply will not drive our IMINT capability in 2020. And for that reason, Mr. Speaker, our conference report challenges the Intelligence Community to invest more in its ability to process imagery. It does no good to have the pictures if we do not have analysts to review them.

We must rebuild our covert action capability. The rise of rogue leaders and regional conflicts has demonstrated once again that the President must have an option between the use of F–16s and doing nothing. The President must have, whenever appropriate, the ability to influence an adversary through the various forms of covert action, properly oversighted, of course.

For that reason, Mr. Speaker, our conference report provides additional funding for development of the Intelligence Community's covert action capabilities.

Rebuilding and refining our HUMINT, our SIGINT, our IMINT, and our covert action capabilities are central to the conference report accompanying H.R. 1555. In addition, we address legislatively a number of specific issues that have arisen with regard to the use and the oversight of these capabilities.

In section 309 of our conference report, we direct the National Security Agency, the NSA, to report in detail on the legal standards that it employs for the interception of communications. I can report, notwithstanding this provision, that the committee has substantial insight into the action of the NSA and the guidance of its legal staff. I have thus far no reason to believe that the NSA is not scrupulous in following the Constitution and the laws conducting its SIGINT mission. However, our job is oversight and we take it seriously.

In section 311 of our conference report, we require that the Director of Central Intelligence report to Congress on any involvement of U.S. intelligence agencies in the abuses of the Pinochet regime in Chile. In response to public and Congressional interest, I have introduced legislation with Senator MOYNIHAN that would coordinate and expedite the gathering and dissemination of such information. The story of U.S. intelligence in Chile, whether good or bad, inspiring or embarrassing, is part of American history. Such stories should, to the extent possible, be provided to the American people. I am hopeful that Senator MOYNIHAN and I have introduced the means to make that happen, and I believe we have.

Finally, in title VIII of our conference report, we provide the President with an important new tool against the menace of foreign drug lords who poison our cities. In title VIII, called ''The Foreign Narcotics Kingpin Designation Act,'' the President and the Secretary of Treasury may publicly identify foreign drug lords and block their transactions and assets. Title VIII extends an executive order against Colombian drug lords to include all foreign drug lords. It provides the President with a new way to use intelligence in the war on drugs. It is long overdue. It is a tried and tested measure. It works and we need to use it.

Mr. Speaker, only through a cooperative, bipartisan effort could our committee have addressed so wide a range of authorizations and legislative provisions in this conference report, and also, incidentally, with such a good professional staff as we have.

The ideas and counsel of the gentleman from California (Mr. DIXON), our ranking member, form a major part of this report. It draws as well on the considerable expertise of the Democratic staff of this committee. And I am pleased to say our committee in my view works on a very close, bipartisan, cooperative basis and the results of that are evident to all.

Our work together on this conference report is a part of an annual demonstration that partisanship, like beepers and cell phones, actually get checked at the outer door of our committee before Members can come into our committee's spaces.

In sum, Mr. Speaker, I rise in support of a strong bipartisan conference report that provides funding and direction for the Intelligence Community of the next millennium. It also provides legislation that addresses oversight issues and expands the use of intelligence in the war on drugs. I urge Members to support this conference.

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

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

(Mr. DIXON asked and was given permission to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, I rise to support the conference report. First of all, let me congratulate the gentleman from Florida (Chairman GOSS), the chairman of our committee, because I think many times not only I, but the staff and other Members thought that we would never reach the floor today. It was due to his diligence and the staff's diligence that we are here today with what I think is a fine conference report.

I also would like to thank John Millis and his staff and Mike Sheehy, our minority counsel, and our staff for working in a very cooperative manner. There is one gentleman on the majority staff who is not present today and that is Tim Sample. That is because his father, Robert Sample, passed away recently. But Tim has done an outstanding job for us, and I know the House extends its sympathy to Tim Sample and his family.

Mr. Chairman, I would like to make special mention of two issues addressed in the conference report. Recently, the National Reconnaissance Office announced the award of a contract to produce the next generation of imagery satellites. These devices will vastly increase the amount of imagery which can be collected. Collection, however, is not the only element in the production of imagery intelligence. Equally important are the elements of tasking, processing, exploitation and dissemination, known collectively as TPED.

Mr. Speaker, to shortchange TPED is to guarantee that the benefit of investments in collection systems will never be fully realized. The imbalance between TPED and collection is now at a critical stage, not because its consequences will be felt in the next month, but because there is no evidence that the executive branch is serious about addressing it adequately in the next few budget submissions.

The conferees agreed to report language which I think is strong and makes clear if the administration cannot budget appropriately for TPED, the scale of the collection system should be modified. There is adequate time in which to assess the resolve of the executive branch on this matter, but in my judgment we are long past the point where we can merely exhort the leadership in the defense and intelligence agencies to bring collection and TPED into balance. The report language is intended to be helpful, but there should be no mistaking the frustration of the conferees with past efforts to achieve realistic budget submissions on this matter.

Mr. Speaker, last week the House adopted overwhelmingly the so-called drug kingpin legislation which would be used to identify foreign individuals and entities that play a significant role in international narcotics trafficking. The bill also provides for the blocking of access to the assets in the United States of those individuals and entities, as well as the assets of those who assist or provide financial or technical support to them.

That legislation is contained in this conference report in place of an amendment on the same issue which had been adopted during the consideration of the intelligence authorization bill in the Senate.

During the debate in the House on the drug kingpin measure, concerns were raised about the impact the bill could have on the property of United States persons who might have a business relationship with an individual or entity identified as a significant narcotics trafficker, even if the relationship was not directly related to the trafficking activities. Similar concerns

may be raised today. Some have asserted that the bill would preclude judicial review of an action to block access to the assets of a United States person. I would be extremely concerned by that result.

Others contend that the Administrative Procedures Act and the Federal court system would be available to a United States person who desires to challenge an asset-blocking action under the bill.

Mr. Speaker, the conferees did not intend to create a situation in which the ability of a United States person to challenge an asset-blocking action under the bill would be less than the ability of a foreign person. To ensure that an unintended consequence did not result in this area, the conferees agreed to include a provision which would establish a commission to examine the judicial review questions raised by the drug kingpin measure and report its findings to the Permanent Select Committee on Intelligence, Committee on the Judiciary, and the Committee on International Relations.

If the commission concludes that due process concerns raised about this legislation are legitimate, I expect that the Congress will take prompt and immediate action.

Mr. Speaker, intelligence programs play an important role in our national security. The conference report strengthens many of those programs and I urge its adoption.

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

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM), a distinguished member of the committee, a chairman of one of our subcommittees, the Subcommittee on Human Intelligence, Analysis and Counterintelligence, a Member who has distinguished himself as leading in the efforts in the war on terrorism.

Mr. MCCOLLUM. Mr. Speaker, I am delighted to take the time at this moment to support this bill. I join in supporting H.R. 1555. The bill is a good one. It reflects a great deal of work by Members and the staffs of the two committees of jurisdiction.

Mr. Speaker, as chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence, I am especially glad to report the committee's mark has addressed a wide range of pressing requirements in each of the subcommittee's areas of responsibility. The bill continues the committee's multiyear effort to rebuild our Nation's human intelligence capabilities, as the gentleman from Florida (Mr. GOSS) has remarked earlier. These have been depleted over the years and are now being rebuilt, as they have been over the last several years, and this bill adds enormously to that.

The bill also includes much-needed support for both the intelligence and law enforcement communities to beef up our counterintelligence programs in a responsible and carefully targeted effort. I am equally pleased that this legislation provides resources for improving our analytical efforts towards emerging threats in such diverse environments as Colombia, North Korea and the former Soviet Union.

Among the most significant provisions in the conference report is title VIII, otherwise known as The Foreign Narcotics Kingpins Designation Act. The House considered and approved this legislation just last week as a stand-alone measure. I am happy to report that the House's action was instrumental in persuading the Senate to incorporate the House-passed kingpins language as a part of this conference report.

Based on the success of President Clinton's 1995 executive order targeting the finances of the Cali Cartel kingpins, I strongly believe that the enactment of this legislation will permit our Nation to fight the war against major narcotics traffickers smarter and with greater precision.

The kingpins legislation gives the President additional legal and financial tools to go after the world's most significant drug kingpins. By building on the legal and administrative precedents established during the 4-year development of the Colombia-focused program, the cosponsors and the administration sought to ensure sufficient legal protection for the innocent, while intensifying the pressure on foreign persons and foreign businesses involved in large-scale narcotics trafficking and money laundering activities.

This mechanism is intended to respond to the emerging threat posed by these global criminals and their organizations. Based on the success obtained to date against the Colombians, it is my expectation that this policy tool could be used with equal success against drug lords based in Southeast and Southwest Asia, Europe, the Former Soviet Union, and elsewhere in Latin America. To ensure that the new tool is properly funded and staffed, I would urge the administration provide the necessary personnel and resources within its fiscal year 2001 budget submissions to the Treasury Department's Office of Foreign Assets Control and to the relevant units of the Intelligence Community.

Mr. Speaker, it strikes me that by going after the assets of these kingpins in the United States, we have a great opportunity to destroy the cartels in ways we otherwise would not, and this is the strongest tool to date.

Mr. Speaker, I strongly support the Intelligence authorization conference report before us today, and I urge all of my colleagues to do so.

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

Mr. MCCOLLUM. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, the gentleman from Florida (Mr. MCCOLLUM) stated a moment ago that in title VIII of the bill, the rights of innocent persons are protected——

The SPEAKER pro tempore (Mr. LATOURETTE). The time of the gentleman from Florida (Mr. MCCOLLUM) has expired.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 1555, the Intelligence Authorization Act for Fiscal Year 2000. First, let me take this opportunity to congratulate the gentleman from Florida (Mr. GOSS), for his efforts in producing a bipartisan bill that addresses the intelligence needs of policymakers and our military.

Additionally, praise must also be extended to the gentleman from California (Mr. DIXON), our ranking Democratic member, for his work in helping to craft this important piece of legislation and for his leadership on the Permanent Select Committee on Intelligence.

Mr. Speaker, this bill is very consistent with the requests submitted by the President. In several areas, the committee recommends modest increases in the request. The committee has recommended additional funding for intelligence, surveillance and reconnaissance airborne platforms that were so important during Operation Allied Force and continue to be critical in the Balkans, Korea and for counterdrug activities.

During Operation Allied Force, we had no ground forces deployed to drive the Serbs into the open, so intelligence surveillance and reconnaissance airborne platforms provided the eyes and ears for our commanders, air crews and targeteers.

□ 1615

Without these platforms, we would have had little success against mobile targets. These platforms provided unprecedented levels of information to our warfighters.

This funding is critical. The military services have not provided sufficient funding for these very high-demand, low-density assets. For a small campaign like Allied Force, the European Command found it necessary, not only to dedicate all their intelligence, surveillance, and reconnaissance airborne platforms, leaving forces in Bosnia and Saudi Arabia vulnerable, but platforms had to also be borrowed from other theaters.

Operation Allied Force proved the value of our investment in unmanned aerial vehicles or UAV's. The Army Hunter unmanned aerial vehicle was flown aggressively and successfully during the air campaign and UAV's are essential for peacekeeping operations in the U.S. sector of Kosovo today. The bill rightly contains increased funding for unmanned aerial vehicles.

The committee strongly believes that it is not enough to just develop intelligence collection platforms; a corresponding investment must be made in the people and the systems that

task, process, exploit, and disseminate what is collected.

Collection systems are costly enough, but will be of little value if the data cannot be immediately analyzed and disseminated to support rapid retargeting or other time-critical activities. The committee has put a tough provision in the conference report to address this issue and expects the administration to remedy imbalances in the imagery architecture.

Mr. Speaker, this bill would provide the funds that are needed to sustain our efforts to combat terrorism, narcotics trafficking, and weapons proliferation. I am pleased to support the bill. I urge my colleagues to support it as well.

Mr. GOSS. Mr. Speaker, it is my privilege to yield 5 minutes to the distinguished gentleman from California (Mr. LEWIS), the vice chairman of the Permanent Select Committee on Intelligence, and there be no daylight between us, appropriator of the committee who has done a marvelous job of making sure the authorization and the appropriations match up, and I offer my congratulations to him.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Florida (Chairman GOSS) very much for his remarks as well as his time.

Mr. Speaker, in the years I have served in the Congress, I hold in the highest regard the work that I have done with the Members of the Permanent Select Committee on Intelligence in the House and in the other body as well. But, particularly, I want to express my appreciation to the gentleman from Florida (Chairman GOSS) as well as to the gentleman from California (Mr. DIXON) and their very fine staffs for the conference report they have developed this year.

I also want to extend my appreciation for their patience with me as I have gone about learning the work that swirls around the Subcommittee on Defense of the Committee on Appropriations this year. I have not been available as nearly as much as I would have liked, but their patience is much appreciated as well as their help.

I want to spend a few minutes discussing what I view perhaps is the most important action taken in this conference report. It should come as no surprise to anyone who follows unclassified discussions of our intelligence capabilities that we are at the beginning of building a space-borne imagery intelligence capability that is meant to take us through the next several decades.

This capability, usually known as FIA for the term ''future imagery architecture,'' will be an incredible improvement over what we can now do. The satellites promise to deliver many times the data at a much-reduced interval between pictures. It has the potential to revolutionize the way we employ our military. It can also greatly complicate the lives of those terrorists, drug lords, and weapons proliferators who threaten our national security. For this reason, Congress has been supportive of FIA.

FIA, to be carried out over the next decade or so, will be the most expensive program in the history of the intelligence community. Over the last 2 years, Congress has imposed spending caps on the program to make sure its costs will not overwhelm the limited money that is available for our intelligence work.

Despite this imposition of those spending caps, there remain severe problems with FIA. We on the Permanent Select Committee on Intelligence are gravely concerned that the program as currently planned has the potential of being the biggest white elephant in U.S. intelligence history.

Now, why would I suggest that? Well, why? Because there is, effectively, no money budgeted now to task the satellites, process the digital data they collect, exploit the information coming from the data, and then disseminate the information to the national policymaker, the President perhaps, the analysts, or the military unit that needs the information. The best that we can do is hope, in the current circumstances.

Let me say that, for 4 years, Congress has warned that the intelligence and the defense communities must keep up to the need to fund the activities to step up to that need to fund these activities to make the system useful. The tasking, the processing, exploitation and dissemination, what we call TPED, has got to have that fundamental support.

We have been told do not worry, we will take care of it. All the while, we get candid comments from the executive branch that, in reality, there is no plan to fund TPED and not even an understanding of how we ought to go about it.

In this bill, Congress has told the administration enough is enough. We have said that, unless there is a plan implemented that will process the satellite data that FIA will collect, we will not buy the satellite system as currently proposed. In English, it does not do any good to take pictures that no one will ever see.

We are hopeful the administration will step up to the challenge, that the military services who are to be the principal beneficiaries will step up and help pay for the bill, and that the intelligence community will also help by finding priorities that it, too, can set aside for a while. If not, they must next year join with us to rethink this hugely expensive program so as to downsize it and somehow find other savings in its development that will allow us to fund the TPED functions without which FIA will be worthless.

This has been a difficult matter, and I am proud of how the members of the Permanent Select Committee on Intelligences have dealt with this head on. We are all advocates of a strong intelligence community, but such advocacy must be guided by good sense, good judgment, and a jealous protection of taxpayers' dollars. It is time to pay the bill for taking the intelligence community into the new millennium.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. BISHOP), who is the ranking member on the Subcommittee on Technical and Tactical Intelligence.

Mr. BISHOP. Mr. Speaker, I thank the gentleman from California (Mr. DIXON) for yielding me this time.

Mr. Speaker, it is my privilege to serve as the ranking member of the Subcommittee on Tactical and Technical Intelligence. This subcommittee oversees intelligence collected by technical means, such as satellites and airplanes and ships.

During debate on this bill in the House, I urged my colleagues to support the legislation; and I applauded the gentleman from Florida (Chairman GOSS) for his respect of the views of the gentleman from California (Mr. DIXON), the ranking member, and of all of the Democrats on the committee. I commended as well the gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Technical and Tactical Intelligence.

I believe that this conference report deserves the same endorsement from the House. It is consistent with the administration's request. It is fair, and it will enhance our nation's security.

I want to point out to my colleagues that this conference report is the only authorization for those intelligence activities of a distinctly national character. The intelligence activities that are unique to the Department of Defense are conferenced with the armed services committees, and the authorization of those activities appears in both the National Defense Authorization Act and the Intelligence Authorization Act. These DoD-unique intelligence activities make up a large fraction of the nation's overall intelligence budget.

This conference report would add about 1 percent to the President's request for national intelligence activities. As with the House version of the bill, there would be modest increases in the budgets for activities centered in the National Security Agency, the Defense Intelligence Agency, and the Central Intelligence Agency, and somewhat less money for the National Reconnaissance Office, which manages the acquisition of our intelligence satellites.

I am pleased that we have fully funded the major satellite acquisition programs, including the new future imagery architecture, or FIA. These new imagery satellites will greatly increase the volume of imagery we can collect, as well as provide for more frequent coverage of targets, which together will address deficiencies identified in Operation Desert Storm and more recent conflicts.

However, these enhanced collection capabilities will not count for much

unless we also invest in the means to exploit and disseminate the imagery on the ground. On this score, executive branch planning has been extremely poor. The conference report would require a reduction in planned collection capabilities unless substantial improvements are planned for exploitation and dissemination.

I would also like to call attention to significant problems at the National Security Agency. The NSA is facing tremendous challenges coping with the explosive development of commercial communications and computer technology. As the new NSA director has pointed out, while the new technology is providing incredible benefits to our Nation's security and economy, it is taxing in the extreme to those charged with intercepting the communications of hostile powers and drug lords. At the same time, NSA has not demonstrated much prowess in coping with the challenge.

The new director of NSA, I believe, grasps the seriousness of the situation. I hope that we have made progress in focusing the attention of the Secretary of Defense and the Director of Central Intelligence on this critical issue.

Fixing NSA's internal problems is only half the answer. A sustained funding increase of some magnitude will also probably be necessary, and there are no obvious candidates yet for offsetting cuts. Action, however, is imperative since the nation cannot navigate with an impaired sense of hearing.

In closing, Mr. Speaker, this is a responsible bill that will enhance our nation's security. It supports our military forces and our efforts to combat terrorism, narcotics trafficking, and weapons proliferation. I am pleased to endorse it, and I urge my colleagues on both sides of the aisle to support it as well.

Mr. GOSS. Mr. Speaker, might I make an inquiry of how much time remains on both sides.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. GOSS) has 15 minutes remaining. The gentleman from California (Mr. DIXON) has 17½ minutes remaining.

Mr. GOSS. Mr. Speaker, it is my privilege to yield 3 minutes to the distinguished gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Technical and Tactical Intelligence, the former governor of Delaware, who is going to tell us about that subcommittee.

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman from Florida, the chairman of the Permanent Select Committee on Intelligence, for yielding to me, and I thank him for the tremendous work that he does for this country, something that is probably not recognized by many people any place in the country other than people in the intelligence community because of the closed nature of what we do.

The gentleman from California (Mr. DIXON) also is a superb individual in that committee who has helped so much with the intelligence responsibilities of the country.

I would like to also thank the gentleman from Georgia (Mr. BISHOP) who just spoke, who is the ranking member on the subcommittee which I do chair, which is the Subcommittee on Technical and Tactical Intelligence.

I also rise in full support of this conference report for the fiscal year 2000 intelligence authorization.

As chair of the Subcommittee on Technical and Tactical Intelligence, I would like to highlight a few major points of committee emphasis over the past year in areas of technical and tactical intelligence.

We spent a great deal of time investigating the Chinese embassy bombing. As a subcommittee, we looked at satellite launch failures and intelligence support for military operations. There has been considerable emphasis on the requirements for future satellites and on associated production issues, and a lot of investigation and questions focused on revitalization of our Signals Intelligence capability at the National Security Agency.

I am keenly aware of the vital contributions of space-based assets to the United States national security, and there clearly is a future. From diplomacy to precision strikes, our assets in space are essential for confident planning and execution of policy. Continuity in satellite operations hinges on another critical program, space launch.

Therefore, the large number of recent launch failures became an issue of intense concern for me personally. Several ongoing investigations are examining reasons for the failures. There is no doubt that the issue is being taken seriously and that very competent government and industry personnel are working to identify and to resolve problems.

□ 1630

However, because the cost of each failure can be so enormous, we must strive for the right balance of independent assessments. The committee will continue to scrutinize the launch issues and exercise its oversight duties. Depending on the results of ongoing studies, I am considering a legislative provision mandating review by an independent panel.

In our hearings on support for the military, a predominant theme was the continued imbalance between collection and other intelligence assets. For years, the committee has stressed the need for better planning and financing of intelligence processing, analysis and dissemination. This year we are insisting that our future imagery satellite capabilities be at least roughly balanced with ground capabilities.

Signals intelligence has also suffered from gaps in what we call ''end to end'' capability, as well as from enormous leaps in target technology. For several years, the committee has insisted that changes are needed at the National Security Agency in order to modernize our SIGINT capabilities and improve efficiency.

The committee is most gratified that the new director of NSA, Lieutenant General Mike Hayden, agreed to conduct unrestrained studies of the need for reform, using both an internal and an external team. These studies were just completed. Both endorsed previous committee findings identifying systemic obstacles to efficiency and change. The difficult part, sorting and implementing solutions proposed by the teams, soon begins. General Hayden has our strong support for decisive action that will, by nature, be controversial.

We will not rest easy until SIGINT is once again healthy.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER), a very valuable member of our committee.

Mr. ROEMER. Mr. Speaker, I thank the gentleman from California for yielding me this time, and I also want to thank him and the chairman for their patience, their insight and their help to a new member of the Permanent Select Committee on Intelligence for the past 11 months.

Mr. Speaker, I rise to note the importance of a strong and effective intelligence community. Dating back over 220 years, certainly General George Washington started our intelligence community with the help of such brave patriots as Nathan Hale, who we lost in the first intelligence operation when he was hung by the British. That history and that importance continues as an important thread through the United States efforts in our military history and in our history to be effective in gleaning information from around the world.

If my colleagues read the report, it is equally important, if not even more important today, to have a cost effective and efficacious intelligence community. We deal with such issues as direct cooperation with our military in conflict. Nothing is more important than getting that information in a very timely methodology to our troops in battle.

We have in this report international narcotics trafficking. Very important for the security of our young people. We have counterintelligence and anti-terrorism efforts. Very important for the security of our country. Anti-proliferation of nuclear weapons, where we work very closely with the intelligence community. And a fourth area, cyber warfare, where other countries can either organize or hack into our defense capabilities or our business capabilities, something that we need to look at in even more important and focused ways. So for these reasons I think it is even more important for the intelligence community to be more effective in what they do.

The 1996 report on the Roles and Capability of the Intelligence Community, Preparing for the 21st Century,

issued by Harold Brown and Warren Rudman, pointed out four areas that we need to improve in, and I strongly encourage the intelligence community, with the help of our chairman and our ranking member and our bipartisan work, to get better in their cost effectiveness. We had a terrible mistake in the bombing in Kosovo of the Chinese embassy. That is not an issue of money, that is an issue of doing the basic job of mapping.

Secondly, the coordination between the intelligence agencies. We need integrated capabilities.

Thirdly, we need to improve the capabilities of the intelligence estimates. They were not particularly accurate in making and measuring the breakup of the former Soviet Union.

And, fourthly, making sure we have a balance between the human intelligence and the satellite intelligence. Both are very important for our national security. I hope we can balance these efforts in the coming year and have a budget that reflects cost effectiveness.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, it has been said that truth is the first casualty in war. It is also true that constitutional liberty can be a casualty of war. Certainly when it comes to the so-called war on drugs, we are very casual about sacrificing our liberties.

Title VIII of this bill, the Foreign Narcotics Kingpin Designation Act, empowers the President to designate people as ''significant foreign narcotics traffickers.'' Once designated, all property in the United States of such a person is seized. Any American who does any business with him can be jailed for 10 years and fined $10 million. All this without any criteria for such designation in the bill. All this without any evidence being necessary. No notice, no hearing, no opportunity to be heard, no protection for the innocent, and no judicial review.

Even the Anti-terrorism Act of 1996 allows a group designated by the person as a foreign terrorist organization the right to challenge the designation in court. But not this bill. No judicial review. The President is given the powers of a pre-Magna Carta King of England to accuse and find guilty with no due process, no process at all, and no appeal.

In 1951, the Supreme Court, in the case of Joint Anti-Fascist Committee vs. McGrath, said that the Fifth Amendment due process clause barred the government from condemning organizations as Communists without giving them notice and opportunity to be heard in their own defense. This title gives no notice, no opportunity to be heard, and no appeal. It is clearly unconstitutional and grossly subversive of the liberty for which this country stands and which we are sworn to uphold.

It is a travesty that this very important and very dangerous title was rushed through this House without any hearings and without any committee review. This title alone richly merits the defeat of the entire conference report, and I will urge my colleagues to vote against the report because of this title.

Mr. GOSS. Mr. Speaker, may I inquire about the remaining balances of time for both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. GOSS) has 11½ minutes remaining, and the gentleman from California (Mr. DIXON) has 12½ minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership, as well as for the leadership of our distinguished chairman, the gentleman from Florida (Mr. GOSS).

One of the provisions of the Intelligence Authorization Act for Fiscal Year 2000 which I have been most interested in is an amendment offered by the gentleman from New York (Mr. HINCHEY) during floor consideration of this bill. The Hinchey amendment required the Director of Central Intelligence to produce a report on the activities of the officers, covert agents, and employees of the intelligence community with respect to the Pinochet regime in Chile.

The Hinchey amendment was somewhat controversial. It was very controversial in fact. It was argued that the search for documents related to human rights violations in Chile directed by the National Security Council was sufficient and nothing further was needed. The issue of cost was also raised, as was the question of how much time should be allotted for the DCI to produce an adequate report on the subject.

Others of us argued that a report was needed on U.S. intelligence activities in Chile with respect to the assassination of President Allende, the accession of General Pinochet, and the violations of human rights committed by officers and agents of Pinochet. Indeed, such a report is long overdue.

An authoritative report from the DCI submitted to the Permanent Select Committee on Intelligence and the Committee on Appropriations on the role of the CIA and other elements of the intelligence community will put into context the information that is now being reviewed, declassified, and released under the direction of the National Security Council. I believe this report should make clear exactly what, if anything, the CIA was doing in concert with General Pinochet and his supporters before and during the Pinochet regime.

Mr. Speaker, I would have preferred to have had a report produced within 4 or 6 months of enactment of this bill, but I am grateful to the chairman, the gentleman from Florida (Mr. GOSS), and our distinguished ranking member, the gentleman from California (Mr. DIXON), for their leadership. We were able to agree that the report be produced in no later than 270 days after enactment and not a year from now, as some would have preferred. I commend the gentlemen for including this in the legislation.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I also want to commend the gentleman from Florida (Mr. GOSS), the ranking member, the gentleman from California (Mr. DIXON), and also my good friend, the gentlewoman from California (Ms. PELOSI), for their hard work in forging this legislation.

The conference report includes my amendment, which was adopted by the House on a voice vote back in May, requiring the CIA to report to Congress on its activities in Chile during the early 1970s. It is time that the Central Intelligence Agency accounted for its role in the military coup that toppled the democratically elected government of Salvador Allende and led to his death. The American people need to know how our government supported the rise of Augusto Pinochet, a ruthless dictator who systematically murdered and tortured his enemies.

General Pinochet has been under house arrest in London for the past year awaiting trial in Spain for his crimes against humanity. The British courts recently upheld the Spanish judge's petition to extradite him.

Last year, the National Security Agency directed the CIA and other government departments and agencies to disclose relevant information regarding Pinochet's military coup and subsequent crimes against humanity. The CIA has not yet complied with this order and has released only a handful of documents to this date. My amendment will ensure that the CIA releases these documents and accounts for its activities during this dark period in Chile's history.

Mr. Speaker, I appreciate the willingness of the gentleman from Florida (Mr. GOSS) to work with me on this issue, and I thank him very much for that. I also thank our ranking member, the gentleman from California (Mr. DIXON), and also the gentlewoman from California (Ms. PELOSI) for their strong and effective advocacy on behalf of my amendment. I know full well that our success would not have been possible had it not been for their diligence, attention and good work.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), a decorated colleague and member of our committee from somewhere west of the Mississippi, who has been invaluable in advising me on military equipment, Air Force needs, and other needs of that ilk, and who adds a great deal of value to the committee.

Mr. GIBBONS. Mr. Speaker, I rise in strong support of the conference report

for the intelligence authorization bill, and I want to thank my friend from Florida, somewhere east of the Mississippi, and the chairman of the committee for yielding me this time.

This past year, Mr. Speaker, has been a challenging one for the intelligence community, particularly in the area of support for our military operations. The United States launched a heavy 4-day offensive against Iraq in the late time frame of December 1998 and fought a war over Kosovo and Serbia earlier this year, all this while our pilots are enforcing the no-fly zones over Iraq. Meanwhile, crises or potential crises in other parts of the world, like the Taiwan Strait, Korea, Indonesia, India and Pakistan, and the Caucasus keep our military on a high state of alert.

Ten years today after the fall of the Berlin Wall I think it is safe to say, Mr. Speaker, that the post-Cold War honeymoon is over. With the men and women of our armed forces deployed across the world, it is especially important that we meet the pressing need for intelligence, surveillance and reconnaissance, or ISR, to support their missions and provide for their protection.

For several years, members of the intelligence community have recognized that American ISR resources and personnel are stretched thin, and we have searched for ways to address these shortfalls. This year, airborne ISR was one of the committee's very top priorities, and I believe this conference report reflects that. Mr. Speaker, while we have not solved all the ISR problems, this bill takes concrete steps toward providing the accurate, timely intelligence and warnings necessary to save American lives and win the battles on the ground and in the air.

□ 1645

Mr. Speaker, I urge my colleagues to support this conference report.

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

Mr. Speaker, I again want to urge adoption of this report. I think it is a fine work product. The gentleman from New York (Mr. NADLER) raises an issue of due process. It is my feeling, Mr. Speaker, although there is some controversy, that there is nothing in this bill that abrogates existing rights of U.S. persons to address their grievance either through the Administrative Procedure Act or ultimately in a Federal district court.

But just in case there is a question on that, and there is, we have provided in this conference report a commission to examine that issue. As I indicated in my opening comments, I hope the commission would act expeditiously on this matter. I think that is sufficient to cover that issue.

Once again, I would like to thank the chairman of the committee for his cooperation and all the members of the committee for their efforts.

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

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

Mr. Speaker, I want to thank the gentleman from California (Mr. DIXON) very much for his hard work and close teamwork and the great spirit of bipartisanship and concern for our country and its national security that he brings himself and his members and, in fact, all our members to the committee.

I am exceedingly proud of our committee. I am very proud of the membership. The value added of each and every Member brings to the committee a wide variety of view and opinion across the country of the gentleman from Nevada (Mr. GIBBONS), who just spoke who represents vast areas of countryside, and others who represent more concentrated, consolidated urban areas.

We have what I think is a very balanced perspective of the United States of America and its national security needs. But behind as good a membership team as that, I would say we have the finest professional staff on the Hill. I would measure them against any other professional staff. I take great pride in them. And again, I do not make distinctions about party affiliation.

Mr. Millis, our chief of staff, does an excellent job, as does Mike Shehy. Both of them I treat as co-equals in running the affairs of the committee. Pat Murray, our general counsel. We have had an expression today of sympathy that is both personal and collective from all of us to our budget cruncher, Tim Sample. But for all those names I just mentioned, there are other members of the committee that have equally pulled the oars just as well in their own area of expertise and deserve to be recognized and thanked by all of America for the work they do.

I think that the points that needed to come out other than the basic themes that we have made clear in this authorization process, which I point out are exactly in line with the appropriations process, and have gone through a very arduous conference process with our colleagues in the other body, we have covered the ground that we needed to cover; and I think we covered it very well.

We certainly have taken into consideration what our other colleagues who are not on the committee have brought forward during this long, deliberative process this year since the authorization bill began, as we have heard in some of the testimonies from the gentleman from New York (Mr. HINCHEY). And there are many other Members who have brought matters forward, I think the gentleman from New York (Mr. SWEENEY), the gentlewoman from California (Ms. WATERS), and the gentleman from Georgia (Mr. BARR). Several come to mind.

We have tried to accommodate in every way their concerns. We may not have done it in exactly the way they asked, but they have gotten consideration and I think a reasonable result out of this.

The gentleman from New York (Mr. NADLER) has expressed concern about our title XIII. I would point out that our title XIII, as the gentleman from California (Mr. DIXON) just pointed out, basically is the same as what this House has passed recently on a vote of 385–26. The language is virtually the same. But in an abundance of caution and fair play and deliberation to make sure that we have got it right, we have gone forward with the idea of a panel to review the situation just to be extra sure because these are important rights we are talking about.

I think it is that kind of fair play and that kind of reasonableness in dealing with legitimate concerns that this committee needs to be attentive to, and I think we have passed that test. I stand forth here today to ask every Member of this House to proudly support this piece of legislation. I believe it is worthy of their vote.

Ms. WATERS. Mr. Speaker, I have deep concerns about the amount and use of the funds authorized by H.R. 1555, the Intelligence Authorization bill for fiscal year 2000. However, I am especially gratified that the Conference Committee included Section 313, ''Reaffirmation of Longstanding Prohibition Against-Drug Trafficking by Employees of the Intelligence Community,'' in the conference report.

Section 313 clearly states that the employees of the Central Intelligence Agency (CIA) and other intelligence agencies are prohibited from participating in drug trafficking activities. Drug trafficking is clearly defined to include the manufacture, purchase, sale, transport or distribution of illegal drugs. Section 313 also requires CIA employees to report known or suspected drug trafficking activities to the appropriate authorities. Section 313 is based on an amendment that I offered during floor consideration of H.R. 1555. The House adopted my amendment by voice vote on May 13, 1999.

Most Americans would assume that the CIA would never traffic in illegal drugs and would take all necessary actions to prosecute known drug traffickers. History, however, has proven that this is not the case.

For 13 years, the CIA and the Department of Justice followed a Memorandum of Understanding that explicitly exempted the CIA from requirements to report drug trafficking by CIA assets, agents, and contractors to federal law enforcement agencies. This allowed some of the biggest drug lords in the world to operate without fear that their activities would be reported to the Drug Enforcement Agency (DEA) or any other law enforcement authorities. This remarkable—and secret—agreement was in force from February 1982 until August of 1995.

For the past three years, I have been investigating the allegations of drug trafficking by the Nicaraguan Contras during the 1980's. My investigation has led me to the conclusion that U.S. intelligence agencies knew about drug trafficking by the Contras in South Central Los Angeles and throughout the United States and chose to continue to support the Contras without taking any action to stop the drug trafficking.

Even more remarkable is the fact that there is evidence that the CIA has actually participated in drug trafficking activities. In the late 1980's, the CIA began to develop intelligence on the Colombian drug cartels. To infiltrate the cartels, the CIA arranged an undercover drug-smuggling operation with the Venezuelan National Guard. More than one and one-half tons of cocaine were smuggled from Colombia into Venezuela and then stored at a CIA-financed Counternarcotics Intelligence Center in Venezuela.

In certain circumstances, the DEA arranges ''controlled shipments'' of illegal drugs, in which the drugs are allowed to enter the United States and then tracked to their destination and seized. However, in this case, the CIA was more interested in keeping the drug lords happy than confiscating the drugs and prosecuting the traffickers. The CIA asked the DEA for permission to ''let the dope walk,'' that is allow the drugs to be sold on our nation's streets. The DEA refused, but the CIA ushered the drugs into the United States anyway.

On November 19, 1990, a shipment of 800 pounds of cocaine was seized by the U.S. Customs Service at the Miami International Airport. Customs traced the cocaine back to the Venezuelan National Guard and the CIA. Unfortunately, we may never know precisely how much cocaine entered the United States through the CIA's pipeline or how much eventually reached our nation's streets. No one at the CIA was ever charged.

The inclusion of Section 313 in H.R. 1555 sends a clear message to our nation's intelligence community: intelligence employees, agents and assets are not above the law. The CIA should be working to stop the harmful trafficking in illegal drugs that is destroying our communities. It should not be assisting the drug traffickers.

I appreciate the support of my colleagues on this important issue and I especially appreciate the willingness of the conferees to include Section 313 in the conference report for H.R. 1555.

Despite the inclusion of Section 313, I am deeply concerned about the amount and use of the funds authorized by H.R. 1555. The United States government spends tremendous amounts of money on covert activities, espionage and other intelligence activities with little congressional oversight and without the knowledge or support of the American people. Spending on intelligence activities should be decreased considerably and congressional oversight over intelligence agencies must be improved. Furthermore, I cannot in good conscience support an intelligence authorization bill as long as the total amount of funds spent on intelligence activities remains classified and unknown to the people we are elected to represent.

I therefore must urge my colleagues to oppose H.R. 1555.

Mr. GOSS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1555.

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

There was no objection.

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

The SPEAKER pro tempore. The pending business is the vote on passage of the bill, H.R. 1714, on which a recorded vote was ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on passage of the bill.

The vote was taken by electronic device, and there were—ayes 356, noes 66, not voting 11, as follows:

[Roll No. 579]

AYES—356

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (VA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Everett
Ewing
Farr
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kaptur
Kasich
Kelly
Kennedy
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—66

Ackerman
Baldwin
Barrett (WI)
Berman
Blagojevich
Bonior
Brady (PA)
Brown (OH)
Chenoweth-Hage
Conyers
Costello
Davis (IL)
DeFazio
Delahunt
Dingell
Dixon
Engel
Evans
Fattah
Filner
Hinchey
Hoeffel
Jackson (IL)
Jones (OH)
Kanjorski
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lee
Levin
Lowey
Luther
McKinney
Meeks (NY)
Menendez
Mink
Nadler
Oberstar
Obey
Olver
Paul
Payne
Phelps
Rahall
Rivers
Rothman
Roybal-Allard
Sabo
Sanders
Schakowsky
Scott
Serrano
Slaughter
Stark
Stupak
Taylor (MS)
Tierney
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Woolsey

NOT VOTING—11

Coburn
Deal
Dickey
Edwards
Gephardt
Largent
Matsui
Pascrell
Scarborough
Smith (TX)
Wexler

□ 1720

Messrs. PAYNE, BROWN of Ohio, BARRETT of Wisconsin, SERRANO, LEVIN, WAXMAN, and Ms. KILPATRICK changed their vote from ''aye'' to ''no.''

Messrs. BILIRAKIS, GEORGE MILLER of California, and WYNN changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundegran, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2454. An act to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall No. 578, I was unavoidably detained because of a celebration honoring the Little Rock Nine sponsored by the gentleman from Mississippi (Mr. THOMPSON). If I had been here, I would have voted ''aye'' for the substitute Dingell amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each further motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate is concluded on other motions to suspend the rules.

SENSE OF CONGRESS REGARDING FREEDOM DAY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 223) expressing the sense of the Congress regarding Freedom Day.

The Clerk read as follows:

H. CON. RES. 223

Whereas on November 9, 1989, the Berlin Wall was torn down by those whom it had imprisoned;

Whereas the fall of the Berlin Wall has become the preeminent symbol of the end of the Cold War;

Whereas the Cold War, at its essence, was a struggle for human freedom;

Whereas the end of the Cold War was brought about in large measure by the dedication, sacrifice, and discipline of Americans and many other peoples around the world united in their opposition to Soviet Communism;

Whereas freedom's victory in the Cold War against Soviet Communism is the crowning achievement of the free world's long 20th century struggle against totalitarianism; and

Whereas it is highly appropriate to remind Americans, particularly those in their formal educational years, that America paid the price and bore the burden to ensure the survival of liberty on this planet: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) a Freedom Day should be celebrated each year in the United States; and

(2) the United States should join with other nations, specifically including those which liberated themselves to help end the Cold War, to establish a global holiday called Freedom Day.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

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

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I am pleased to be associated with this worthy initiative, H. Con. Res. 223 by the gentleman from California (Mr. COX) and the gentleman from California (Mr. LANTOS), which recognizes this important 10th anniversary of the fall of the Berlin Wall.

The Berlin landmark was the most infamous symbol of the Cold War in Europe. It ran like a scar across one of Europe's grandest cities that had enjoyed a reputation for openness, for cultural innovation and flair. Tragically, that wall carved Berlin into two separate cities, its western half, a beacon of hope and freedom; its eastern half, a gray manifestation of Communist tyranny.

It is important that we recall the reasons that the regime of East Germany finally felt compelled to erect that wall, not to keep people out of the Communist ''paradise,'' but to keep people in, to prevent them voting with their feet. Tragically, too many people died when they refused to let the wall impede them in their quest for freedom.

Ten years ago today, the Wall fell. The weight of the Communist system became too much for it to sustain. At that moment, the wisdom of President Ronald Reagan, when he appealed two years earlier to Gorbachev to ''tear down this wall'' and other leaders of the West, that led to the collapse of Communism in Europe was ratified.

It is hoped that our government will enlist all of the nations that benefited from Communism's demise to establish this date as Freedom Day. We owe that to the thousands of men and women in this Nation and in other nations who sacrificed everything to make freedom in Europe a reality.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure.

Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. COX) be entitled to control the balance of my time.

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

There was no objection.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I might consume.

I want to commend my friend and colleague, the gentleman from the New York (Mr. GILMAN) and my friend and colleague, the gentleman from California (Mr. COX), for bringing this measure before the House. Of course, I rise in strong support of this resolution.

Mr. Speaker, some of us lived through this period from the establishment of the Berlin Wall to its collapse, and these two bookends, in a sense, cover basically the period of the Cold War.

I think it is instructive to begin our discussion of this issue by recognizing that the Berlin Wall is probably the only wall ever built in history not to keep the enemy out, but to see to it that the people behind the wall do not escape. The collapse of the Wall symbolized the collapse of the Soviet empire, and it indicated the end of the Third World War, which the West won without firing a single shot.

What is most remarkable about our victory, Mr. Speaker, is that it was a fully bipartisan victory. It began with the farsighted visionary and pragmatic measures of a Democratic President, Harry Truman; and it concluded during the powerful leadership of President Ronald Reagan who did, in fact, call to have the Wall removed. And from Truman to Reagan, this remarkable era represented one of the most impressive bipartisan periods of foreign policy in the history of the United States.

But it was not only our victory. It was the victory of our allies across Europe who joined together in NATO, the most impressive defensive military alliance the world had ever seen, to resist Soviet and Communist expansion, and it was the victory of the countless heroes behind the Iron Curtain who gave their lives so that others might live in freedom and democracy.

Usually, suspension bills can be easily handled with 40 minutes of discussion and debate. This topic would require 40 hours to begin to pay proper tribute to the countless men and women in this country and abroad who fought for the cause of freedom and whom we honor by establishing a day of freedom, a global holiday on November 9.

Let me just single out a few people who deserve special recognition. I suggest, Mr. Speaker, that the Berlin Wall would still stand, the Soviet Union would still be in existence if it had not been for the farsighted and courageous leadership of Mr. Gorbachev in recognizing that the Soviet Union had lost

the Cold War, that to continue the suppression of tens of millions of people by military force was doomed to defeat and was counterproductive. He deserves full credit along with the others I mentioned and countless others whom we do not have time to discuss this afternoon. But without Mikail Gorbachev's recognition that Russia and the Soviet Union must move along different lines, we would not be here celebrating Freedom Day, November 9.

□ 1730

We need to pay tribute to the freedom fighters in Hungary in 1956, who, against overwhelming odds, demonstrated their commitment to freedom. We are here to pay tribute to the people who led the Prague Spring of 1968, when for the first time there was a determined effort to put an end to Communist dictatorship in the Czechoslovak Republic.

We are here to pay tribute to individual men and women throughout the countries behind the Iron Curtain who, with their dedication and devotion to freedom, have made this day possible. We are here to pay tribute to the dissidents and refusniks in the Soviet Union who, under unbearably impossible conditions, persevered in their dedication to democratic principles.

From the walled cities of Europe to the Great Wall of China, walls have always kept the enemy out. The Berlin Wall, and we celebrate its collapse 10 years ago today, the Berlin Wall was built to keep people in, to prevent them from escaping.

We have succeeded in making Europe whole, free, democratic, and at peace. While the task is certainly not completed, as the events in Yugoslavia in the last few years so clearly demonstrate, we have come a long way in creating a stable and peaceful Europe, prepared to meet the challenges of the 21st century.

In paying tribute to Republican leaders and Democratic leaders, as well known as presidents and as unknown as ordinary people, who believed that people on both sides of the Iron Curtain were yearning to live in freedom and dignity and peace, we are paying tribute to the finest traditions of western civilization.

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

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

Mr. Speaker, I thank my colleague, the gentleman from California (Mr. LANTOS).

Mr. Speaker, it is very important that Congress take time, as we are doing just now, to recognize what is truly important and transcendent and what, on the other hand, is perhaps urgent, perhaps requiring us to devote our time because it is our work-a-day business here, but not nearly so important in the lives of American citizens and citizens around the world as what we are doing here today, remembering, in part, and looking forward, even more importantly, in greater part. So that by remembering, we will always be free.

It was, as the preceding speakers have pointed out, 10 years ago to the day that the Berlin Wall was taken down. It did not fall, it was taken down by the people imprisoned behind it, with the help of people around the world.

In this Chamber, as I have pointed out on many occasions to visitors to the Capitol from California and elsewhere, we have only two paintings. They have been part of the furnishings of the House Chamber for some time.

One of them is an American, the father of our country, George Washington. The other is a foreigner, a Frenchman, the Marquis de Lafayette, who serves, I believe, as a reminder to us that our democracy would not be here without foreign assistance.

The people of Central Europe and the people of Russia and the former captive nations waged their own struggle against Soviet communism, but they would not be free today without help from others, including, in major part, the people of the United States of America.

We will never know how many people perished behind the Iron Curtain, but estimates are 70 million souls lost their lives to communism. The Berlin Wall, which was a 13-foot high structure of concrete and tangled barbed wire, stretched for 103 miles and symbolized the difference between freedom and totalitarianism, the difference between democracy and free enterprise that we enjoyed on our side of the Berlin Wall, and communism, Soviet-style, East German style, that people were required to live under on the other side.

Mr. Speaker, this 13-foot high 103-mile wall topped with barbed wire symbolized the great abiding differences between the two chief systems of the world, communism and its antonym, freedom. The Berlin Wall was called by Germans ''the wall of shame,'' and indeed, 77 Germans lost their lives trying to get out. They were murdered trying to make their way to the light of freedom in the West.

There are many red letter dates in the history of the Cold War that in victory was symbolized by the fall of the Berlin Wall. In 1948, Harry Truman ordered the Berlin Airlift, ensuring that the people of West Berlin would resist the Stalinist siege. In 1991, 2 years after the collapse of the Berlin Wall, the Soviet Union collapsed.

There is another red letter date in this history. It is the future date when the last Communist tyrants in Beijing, Hanoi, Pyongyang, Belgrade, and Havana are off the world's stage. But that fight remains for us today.

The most memorable date of all that we commemorate now is that date exactly 10 years ago, November 9, 1989, when the Berlin Wall came tumbling down. I was in Berlin 10 years ago and watched this process of physical dismantlement, and what an amazing metaphor, and actually stepped through a hole in the Berlin Wall.

In 1977, more than a decade earlier, the former Governor of California, later to become the President of the United States, talked to a man who would one day become his national security adviser, and it was Ronald Reagan conversing with Richard Allen.

He told Richard Allen, history records, ''My idea of American policy toward the Soviet Union is simple. It is this: We win and they lose.'' That approach, begun by Harry Truman, carried throughout the rest of the 20th century until the collapse of the Berlin Wall in 1989, at the conclusion of the Reagan presidency and the beginning of the Bush administration, was a visible, tangible symbol and representation of American resolve to win that fight, and it was a war.

When President Reagan took office, the Soviet Union had already invaded Afghanistan, the communists had declared martial law in Poland, and the United States responded with strength. We imposed sanctions on the regime in Poland, and indeed, on the entire Warsaw Pact and Russia, cutting back on technology, never granting them most-favored-nation trade status.

In 1983, NATO showed its solidarity, showed that it would not be divided by Soviet designs, when, against massive popular protests in the United Kingdom and in Germany, Prime Minister Thatcher and Chancellor Helmut Kohl agreed to accept the deployment of intermediate range missiles on their territory deployed by the United States.

Three years later at Iceland, at Reykjavik, when I was working for President Reagan in the White House, President Reagan told his counterpart, Mr. Gorbachev, that the strategic defense initiative, the right and the obligation of the West to defend itself, would not be set aside. There would not be an arms control agreement that would have the direct consequence of permitting the Soviet military comfort and continued life.

That same year President Reagan agreed to provide shoulder-fired Stinger missiles to the rebels in Afghanistan, fighting the Red Army. It was thought at the time that no one could defeat the Red Army, but just a few years later that is exactly what happened, and another big chunk of the Soviet empire fell apart.

When one recounts the popular movements and the life-threatening risks that were taken in order to defeat Soviet communism, one recalls Charter 77 in Czechoslavakia and the leadership of such men and women as Vaclav Havel. We remember the Solidarity movement in Poland, and the leadership of such extraordinary people as Lech Walesa. We remember people like Vytautas Landsbergis and the Sajudis movement in Lithuania.

It was my opportunity to travel to those countries to meet with those people; to meet, indeed, with a man who eventually would become the President

of Hungary, Arpad Goncz. We have to recall that it was Hungary that accepted the refugees through the Berlin Wall that began to, more than anything, strike at the very foundations of the wall itself and everything that it stood for, ultimately the collapse of the Soviet Union.

We, with this House concurrent resolution, are working with our colleagues in the other body to do more than just speak today on the 10th anniversary so that we in this body will pay due attention to an important milestone in the history of freedom and the advance of freedom around the world. We are also asking our government to work with governments around the world to establish a freedom day that will perennially recognize the victory of the free world over communism in the Cold War, and remind us that freedom requires us to be ever vigilant.

There are a number of Members who wish to speak on this resolution. I wish to recognize Members not in this body who are responsible for advancing this legislation. Specifically, I would like to recognize Ben Wattenburg with the American Enterprise Institute, a veteran of the administrations of Presidents Johnson, Reagan, and Bush, who has written amply on this topic, and I think done as much as any single individual to move us to this action.

I would also like to point out that the Senate majority leader strongly supports this legislation, as does Senator LIEBERMAN, who will be moving the companion in the other body.

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

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

Mr. Speaker, I cannot help but comment on the many things that come back to memory, listening to my colleague, the gentleman from California (Mr. COX).

The distinguished Democratic leader, the gentleman from Missouri (Mr. GEPHARDT) and I were at the wall as it was destroyed physically, and it was our great pleasure to participate in the physical destruction of the Berlin Wall, which clearly is one of the highlights of my life, and I am sure that of the gentleman from Missouri (Mr. GEPHARDT).

Mr. Speaker, it gives me a great deal of pleasure to yield 4 minutes to my colleague and friend, the gentleman from Wisconsin (Mr. KIND).

(Mr. KIND asked and was given permission to revise and extend his remarks.)

Mr. KIND. Mr. Speaker, I thank my good friend, the gentleman from California (Mr. LANTOS), one of the most preeminent defenders of human rights and freedom in this body, for yielding me this time.

Mr. Speaker, I rise as a proud supporter of this resolution, which commemorates the 10-year anniversary of one of the most astounding historical events of the 20th century, the fall of the Berlin Wall and the collapse of communism throughout Central Europe.

□ 1745

What started out as a trickle, Solidarity's victories in Poland during June of 1989, Hungary opening up its border with Austria later that summer, led to a deluge of East Germans flooding across the Berlin Wall. And a few weeks after that, the Velvet Revolution in Czechoslovakia took place. And no one could predict these events and no one knew how to react to these events.

One of my most cherished possessions that I still keep here in Washington with me on my desk is this chunk of the Berlin Wall. It still has graffiti painted on it. Coincidentally, it is shaped like the State of Wisconsin. But it is a chunk that I personally whacked out of the Berlin Wall on October 3, 1990, during the reunification celebration when I was over there as a student traveling throughout Central Europe.

This came at a crucial time in my life, Mr. Speaker. As a third year law student, I was watching these historical events unfold with rapt attention like the rest of the world was, but I was feeling a little bit disillusioned, and a little bit cynical about our own political process here in this country. So I decided a few months after the revolution had taken place to travel through Central Europe to visit the European capitals, live out of a backpack, survive on cheese and bread during that time and see firsthand these remarkable changes taking place.

I met when I was traveling through there the real heroes in my mind of the revolutions and the changes that took place. They were students such as myself about my age who had literally, on the front lines of the demonstrations, literally looking down the barrel of communist guns and facing Soviet tanks, not knowing whether they were going to succeed or whether this was going to turn into a massacre. They knew their countries' individual histories. 1968, Prague Spring. 1956, Hungary when the communist authorities did in fact crack down. And as history later showed during the Velvet Revolution, the Politburo voted 5 to 4 not to use force to bring down the demonstrations. One vote could have made all the difference in Prague during that fall of 1989.

Mr. Speaker, I asked many of these students what they remembered most about those demonstrations and the events and they said two things: How terribly cold it was as they were maintaining candlelight vigils all night long, and the fear that they felt, again not knowing whether or not the military was going to open fire on them. But perhaps the most important wall that fell in that region to make this all possible was not even visible. It was the wall of fear that fell. And we cannot overestimate the role that fear does play in any totalitarian or authoritarian regime to keep them in power.

But this was made possible because Mikhail Gorbachev, as the gentleman from California (Mr. LANTOS) already indicated, changed the dynamics in the region by denouncing the use of force in order to keep communist governments in power; by pursuing his policies of glasnost and perestroika, the general opening of information and ideas in these regions. It diminished the fear and empowered people to have the courage to demand change.

Perhaps it is the greatest magnificent irony that one of the most oppressive communist regimes in that area, Czechoslovakia, would later be led by former poets and playwrights. Vaclav Havel, the first democratically elected President in Czechoslovakia, was a former playwright himself. The first democratically elected president since Masaryk and Edvard Benes just before the Second World War.

He was the founder of Charter 77, the moral blueprint for change in the area, and also founded the Civic Forum that gave the people in Czechoslovakia the political alternative to the communist regime, but not before he was imprisoned on four separate occasions. In fact, during one of those imprisonments he was on his deathbed, literally. The communist authorities did not want a martyr on their hands, so they went to him and said, ''Listen, the people who give out the Obie Award will allow you to direct your own play in New York and get proper medical attention.'' And he said, ''I just have one question. If I go, will you allow me back in?'' And they could not give that assurance and so he refused. The rest, as we say, is now history.

But in conclusion, I just want to pay a special tribute and wish a special happy 10-year anniversary to those students who really were on the front lines and showed through their courage that there are causes and ideals greater than one's self that are worth risking everything for. So on this day, my thoughts and my memories go to many of those students who I personally had a chance to meet and who inspired me to get involved in public service when I did return to the United States.

Mr. COX. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), chairman of the Committee on Armed Services.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Speaker, it is entirely proper that we observe this anniversary of the wall coming down in Berlin and the later end of the Cold War. I think it is appropriate too that we reflect on how this came about.

Mr. Speaker, the Cold War took up a large space in our history of this country. We faced many hardships during this war. But the policy that made the end of the Cold War come to an end is something that we should reflect on and learn a lesson from.

We fought communism all over the world. We helped other people to fight

communism. We engaged in something people criticized us for: An arms race. An arms race. The arms race was a big part of the policy that allowed us to win that war.

A strategic defense initiative by President Reagan, something we have been working on ever since that time, played a big part in that policy and the end of that Cold War.

In essence, the communists could not keep up with our free market economy and the freedoms we have in this country. They could not keep up, and so the war came to an end, the Cold War.

But my concern today is that we have not learned from that experience. There are many lessons to be learned from it. We have not learned from it. We have made the same mistakes we made after every conflict we have ever been involved in. We have cut back too much, and the result is that we are not prepared today adequately to defend this country against all of the threats we have today with us.

Mr. Speaker, mark my word, we are living in a very dangerous world today. As a matter of fact, it is more dangerous than during the Cold War because we still have the Cold War threats of nuclear warfare plus now we have threats of weapons of mass destruction. And I might point out that we are unprepared to defend against either. Intercontinental ballistic missiles and nuclear warfare and theater missile defenses against theater missiles and all the weapons of mass destruction.

A new study is out showing that in the future, this country will be subject to attack on American soil and Americans will die in large numbers on American soil. We have had other places to fight in the past, and we face this kind of a future and, Mr. Speaker, if we do not return to the Reagan policy of peace through strength, we will not be able to face this kind of a threat in the future.

Mr. LANTOS. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. MCNULTY), my friend and colleague. He has been an indefatigable fighter on behalf of freedom during his service in this body.

Mr. McNULTY. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for yielding me this time, and I thank both of my friends from California for bringing this resolution to the floor. I strongly support it.

Mr. Speaker, 1989 was a wondrous year to be alive, and the events which we celebrate actually started in Poland. After many years of struggle during which Lech Walesa and his followers spent their time under martial law, house arrest, or actually in jail, democracy prevailed in the great nation of Poland.

And then, as others have said, the movement quickly spread throughout Eastern Europe. I will never forget as long as I live the specter of Erich Honecker, then the leader of East Germany, standing up before the world and making this pronouncement: ''This is where it stops. It shall not happen here,'' meaning the democracy movement.

Within weeks of his making that statement, he was no longer the leader of East Germany. He was replaced by Egon Krenz, who decided to adopt the ''moderate hard line,'' which roughly translated meant they were going to try to appease the democracy movement but preserve the communist system. He too was quickly dispatched, and we know the rest of the story.

Mr. Speaker, I was at The Berlin Wall when the people were out there with their hammers and chisels tearing it down piece by piece. You can imagine how I felt, this child of the Cold War, brought up in Green Island, New York, population 2,500, taught by the good sisters of St. Joseph who had a monthly drill where we were required to drop to the floor, get under our desks and prepare for the air raids by our totalitarian enemies. And that had an impact on me, Mr. Speaker. One day I would be thinking about my hopes and dreams and aspirations and how I wanted to be like my father and go into public service, and the next day we would have one of these drills and I was scared. It had a tremendous impact on me to think that some world leader somewhere could make a decision which would end humankind as we knew it.

Mr. Speaker, I am grateful that I have lived to see the day when my four daughters and my three grandchildren and young people all over the world can look forward to growing up in a more peaceful world.

As I was standing at the Berlin Wall watching it being torn down, I knew I was present for a great moment in history. I felt like the gentleman from Wisconsin (Mr. KIND). I wanted some commemoration of that. I noticed as people were chipping away at the wall and the pieces were falling they would catch them and put them in their pockets as little mementos. And I said to myself, I think I would like to do that. Already, capitalism being in evidence, there were vendors out there selling pieces of the Berlin Wall. Ever the skeptic, I said ''how do I know that those pieces came off the wall?'' So I looked around and capitalism being further in evidence, there was a guy walking back and forth with hammers and chisels renting them out. So I went over with my military escort who spoke German and we made a deal and I paid some money and I grabbed a hammer and chisel and did what the gentleman from California (Mr. LANTOS) did. I chipped away at that wall and helped tear it down and brought back some of those pieces to give them to veterans of our Armed Forces who I knew would cherish them.

I later went through Checkpoint Charlie, or the remnants of it, and talked to people in East Berlin and was just totally amazed by what they were telling me about what was happening. I came back to the other side. I was to be briefed by our commanding general, and before he could say anything to me I started talking and I could not stop talking about how excited I was at what I had just heard and witnessed. He just said to me: ''MIKE, I wish you were with me the first day they opened up free access through Checkpoint Charlie. They had a ceremony and everybody was lined up on our side and as the people came through from East Berlin, they were very polite to the politicians and other diplomats that were in the line. But they saw my uniform and they came to me and one after another, they told me, 'You tell your government, but particularly you tell your soldiers, how grateful we are for their vigilance through the years. Had it not been for their vigilance, we would not be enjoying this new freedom today.' ''

Mr. Speaker, at that moment in my life I was never more proud to be an American.

□ 1800

So, to me, Mr. Speaker, it is no coincidence that Freedom Day is so close to Veterans' Day. We should remember what happened after those events, too, namely the breakup of the Soviet Union into individual democratic republics. I was in one of them on their Independence Day: Armenia. What a great thrill it was to be with them the day after their referendum as they danced and sang—(the gentleman from New York spoke in Armenian), long live free and independent Armenia.

Let us remember all that, but especially let us remember the soldiers who are responsible for the freedom that is enjoyed now by hundreds of millions of people around the world who had been denied it all their lives.

Mr. COX. Mr. Speaker, may I inquire how much time is remaining.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. COX) has 4 minutes remaining, and the gentleman from California (Mr. LANTOS) has 1 minute remaining.

Mr. COX. Mr. Speaker, we have only four speakers remaining. I ask unanimous consent that each side be given 2 additional minutes.

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

There was no objection.

Mr. COX. Mr. Speaker, I yield 1½ minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I regret that there is not more time to discuss a very important and historical day, the 10th anniversary of the fall of the Berlin Wall. Like the gentleman from New York (Mr. MCNULTY), I am a member of that baby boom generation who remembers Khrushchev pounding his shoe, fallout shelters, and all of the images of the Cold War. We wondered if Eastern Europe would ever be free and if international Communism would ever be ended.

So I am pleased to take part in this debate today. We have already heard the names of a number of individuals who have participated over time in bringing about the end of European Communism.

The gentleman from California (Mr. LANTOS) mentioned President Truman and President Reagan. Certainly we should not forget that there were even members of the Reagan administration who, during that time, were worried about President Reagan using terms such as ''evil empire'' or saying, ''Mr. Gorbachev, tear down this wall.'' They urged him not to do so, but thank goodness President Reagan was strong and was one of those people who enabled us to be having this celebration today.

I want to take just a moment to honor the name of another anti-Communist hero, Whittaker Chambers. I have just been reading the book, *Witness*, the autobiography of this courageous individual who had the fortitude to come forward, to name names, to risk his family, his finances, his future, and even his freedom to say that there were Communists in our own Federal Government and to play a crucial roll in the fight against international Communist tyranny.

I think, while we are celebrating the 10th anniversary of the falling of the Wall, we should also remember the name of Whittaker Chambers, and I honor his memory today.

Mr. COX. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, those two words, Cold War, are chilling to the millions of people that never knew freedom before the Wall fell. Many U.S. citizens have never known a socialist or Communist regime, although many Americans gave their lives and efforts to remove just a small symbol and a barrier to that freedom.

I would like to thank the gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. COX). I want to thank them deeply for the men and the women that they spoke about that fought for this challenge. But I would say to my friends that these same men and women would challenge us to continue the fight for an invisible, but a real wall to freedom of a socialist and Communist ideology that enslaves freedom itself.

The former Soviet Union and China, in my opinion, are bitter enemies of the United States. Does that mean we need not engage them? No. Firm diplomacy, fair trade, not just trade, and even a big stick at times. But peace through strength is a hollow cry for many of those that brought down the Wall. For those that are aware of our military today know that that Wall would not fall under peace through strength with our military.

It is a challenge that all of us in this House, both Republicans and Democrats and Independents, should fight for on a very bipartisan basis.

Mr. COX. Mr. Speaker, I ask the gentleman from California (Mr. LANTOS) if he would agree to yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. LANTOS. Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS), the ranking member, for yielding me this time.

Mr. Speaker, words have meaning. Ideas matter. Actions have consequences. About the time the solidarity movement began to take root in Poland, the Roman Catholic Cardinals sort of shocked the world, and they elected a Roman Catholic Cardinal from Poland to become the new Pope.

As the solidarity movement gained strength, there was fear that the Soviets would actually send military forces to bring down that movement in Poland. The new Pope sent word to the Soviets that, if the Soviets invaded his native Poland, he would be there to meet them. Words have meaning.

Then later, our President Reagan went to Europe; and against the advice of some of his advisors, he used those very harsh words, he talked about that evil empire; and he talked about the ash heap of history. Words have meaning.

Then later, when President Reagan went to Berlin and he said, ''Mr. Gorbachev, if you mean what you say about Glasnost and Perestroika,'' he said, ''Mr. Gorbachev, come to Berlin and tear down this Wall.'' Now, those words were barely reported here in the Western press, but they thundered across Eastern Europe. Those words alone began to build up the momentum in Eastern Europe.

So we can celebrate today the 10-year anniversary and, in some respects, the anniversary of the real victory of all of those veterans we sent to Europe. But back in World War II, we sent 16½ million people to fight that war. They came back, and it was not really concluded because half of Europe was still enslaved.

This is a great victory for all Americans. It is a great victory for the people of the world. I am delighted we are moving forward with this resolution.

Mr. COX. Mr. Speaker, with the agreement of the gentleman from California (Mr. LANTOS), I ask him to yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. LANTOS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, this is a special occasion today for us to be here on the 10th anniversary of the collapse of the Berlin Wall because it symbolizes a victory in the Cold War which dominated us in this 20th century, for the second half of the 20th century.

Some of the kids are now learning in the history books what so many of us lived through back in the 1950s and 1960s and 1970s and 1980s.

It is very special to celebrate, but also to say thanks to the millions of Americans and millions around the world that helped fight for freedom and democracy against the Communist evil empire, as President Reagan used to call it.

Unlike victories in World War II and World War I where we had a signing, this was a gradual victory; and it is not totally over because we still have Communist dictators in the world in North Korea and Cuba.

But the thing is we have a victory that we need to celebrate and to say thanks. That is why this today is a special occasion. Those photographs in the paper of President Bush and Mikhail Gorbachev and Helmut Kohl over in Berlin brings back vividly the sacrifice that was made. So thanks to everyone that contributed to this great great victory.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), a distinguished leader in the Congressional Human Rights Caucus who has for years advanced the cause of freedom, to conclude the debate on this legislation.

Mr. WOLF. Mr. Speaker, I saw the Berlin Wall the first time in 1982. It was moving. I am honored to have this opportunity in support of this resolution to have the 10th anniversary but also for Freedom Day.

People say the Berlin Wall fell down. The Berlin Wall did not fall down. The Berlin Wall was pushed down. Ronald Reagan pushed the Berlin Wall down when he gave the evil empire speech. The Pope helped push the Wall down. Lane Kirkland of the AFL–CIO when he gave money to Lech Walesa and solidarity helped push the Wall down. Natan Shiransky, when he got out of gulag 35 and a Russian said walk straight across the bridge, zigzagged back and forth against the bridge in defiance of the Soviet Union. Natan Shiransky helped push the Wall down. Elena Bonner helped push the Wall down. Zacharov helped push the Wall down.

Whittaker Chambers, the gentleman from Mississippi, when Whittaker Chambers wrote in the book Witness, he said, ''When I left the Communist party, I believed that I was leaving the winning side and joining the losing side, and nothing I saw has made me think that I was wrong.'' Whittaker Chambers was wrong on this point, and Ronald Reagan was right on this point. In fairness to Members on both sides of the aisle in strong support of anti-Communism was right.

Lastly, in honor of Colonel Nicholson who was the last member of the military. It was a military designated in West Berlin who was killed by the Soviets in East Berlin. We honor him with this resolution.

I want my children to remember. I want my grandchildren to remember. I

want everyone to remember. The Berlin Wall did not fall. These people pushed it down.

The SPEAKER pro tempore. The gentleman from California (Mr. LANTOS) has 1½ minutes remaining.

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

Mr. Speaker, in concluding this debate, we need to remind ourselves that, as we rejoice in the 10th anniversary of the collapse of the symbol of tyranny, the Berlin Wall, that the battle is not yet fully won. There are dictators in Tehran. There are dictators in Baghdad. There are dictators in North Korea. There are dictators in Belgrade.

Our job will not be finished until every single man, woman, and child on the face of this planet will be able to practice his religion, speak his mind, be able to travel freely, be able to join associations of his own choosing, political parties or otherwise.

We have come a long way. The Soviet Union is nothing but a bad memory. But dictatorial regimes still exist. Freedom Day, as we will celebrate it, will not be fully a reality until in every single country, from the Taliban-controlled Afghanistan to the Milosevic-controlled Yugoslavia, will be able to live and breathe freely. We hope that this body will then again proclaim freedom and Freedom Day on November 9 for all the inhabitants of this planet.

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

Mr. COX. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. WICKER).

(Mr. WICKER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. WICKER. Mr. Speaker, this morning, a very thoughtful editorial on this subject appeared in my hometown newspaper, the Northeast Mississippi Daily Journal.

Mr. Speaker, I insert that editorial for the RECORD as follows:

[From the Daily Journal, Nov. 9, 1999]

A PEACEFUL REVOLUTION THAT OPENED THE BERLIN WALL MUST BE SUSTAINED

The fortified portion of it was 26 miles long. It stood up to 15 feet high in spots. It was topped with barbed wire and an assortment of other obstacles.

Anyone brave or foolish enough to try to scale it had to get by electronic alarms, mines, trenches and, of course, armed guards. One hundred seventy people died trying.

The Berlin Wall became the most dramatic symbol of the Cold War, a stark and striking reminder of the tyranny of communism. The government of East Germany had to wall in its own people, so oppressive was the environment on its side of the wall and so compelling were the freedoms enjoyed on the other.

Ten years ago today the wall fell, in a figurative sense. Its fortified passages were opened and traffic allowed to flow freely between East and West Berlin. Within a year East and West Germany were unified. By 1992 the wall was physically dismantled.

Who can forget that amazing period in Eastern Europe as communist governments one after the other fell, virtually bloodlessly, the victims of a new yearning in their people and an old rottenness in their core. The world drew inspiration from the young protesters defiantly perched on the wall, smashing away pieces of it, mocking its pretense to control over their lives.

The fall of the wall and the unification of East and West Germany were events that virtually no one predicted would occur so rapidly and with so little violence. These and corresponding events in Eastern Europe, beginning with the Solidarity movement in Poland in the early 1980s, exposed the great vulnerability of communism or any oppressive system when strong people unite against it.

Today communism, while not completely dead, is completely discredited. Even China's leadership has been forced to modify its formerly orthodox communist economy in order to survive, though political repression is still a fact of life in that last communist power.

Ten years after the fall of the Berlin Wall, and eight years after the complete disintegration of the Soviet Union and the Soviet bloc, the world is a safer place.

And yet. . . .

Lurking beneath the evolving democratic processes in former communist countries are the forces of reaction, remnants of the old guard or those nostalgic for its return. The transition to democratic governments and free markets in Russia and Eastern Europe has hardly been smooth; one crisis after another has marked the effort by formerly communist countries to make up for decades of failed economic, social and political policies. There are those exploiting the inevitable discontent.

The United States has a vested interest in seeing that those countries who threw off the shackles of communism and brought a thaw to the nearly half-century of Cold War succeed. We have preached the gospel of free markets and free political systems, and we must maintain our determination to assist them in working through the pains of transition that can seem worse to some than the stability of the old system.

The United States probably kept Western Europe from eventually succumbing to communism by rebuilding its cities and economies with the Marshall Plan after World War II. We are not in a position nor is there the need to proceed with a program of that magnitude today.

But aid and assistance, government to government and citizen to citizen, from the U.S. to formerly communist countries, as well as active diplomatic efforts to achieve the stability for freedom to flourish, are vital to our national interests.

Some would say it's time for the United States to withdraw, to give up its role as a leader of the free world, to worry only about internal concerns. That would be to dishonor the sacrifices already made by Americans: remembered Thursday, Veterans Day and the courage of those who fought to overcome tyranny in their own lands.

The Berlin Wall, and all it represented, failed 10 years ago today. What followed must succeed, and we must be willing to help it happen.

Mr. COX. Mr. Speaker, I submit for the RECORD an article written by Ben Wattenberg of the American Enterprise Institute, who first proposed the idea of a Freedom Day in December 1991. I am proud that we are finally moving forward with this idea, and I thank him for his commitment to ensuring that future generations recognize the important sacrifices made by those who fought for freedom against the evils of communism.

[From the Washington Times, November 4, 1999]

MOVING FORWARD WITH FREEDOM DAY

(By Ben Wattenberg)

Ten years ago, on Nov. 9, 1989, the Berlin Wall was battered down by the people it had imprisoned. The event is regarded as the moment the Cold War ended. For Americans without sentient memories of World War II, the end of the Cold War has been the most momentous historical event of their lifetimes, and so it will likely remain.

Long yearned for, the end of the Cold War has more than lived up to expectations: Democracy is on the march globally, defense budgets are proportionately down, market economies are beginning to flourish most everywhere, everyday people are benefiting each and every day.

The end of the Cold War actually was a process, not an event. By early 1989, Soviet President Mikhail Gorbachev had pulled his troops from Afghanistan, whipped. Poles elected a non-communist government; the Soviets did nothing. Hungary, Czechoslovakia, East Germany and later Bulgaria installed non-communist governments. It was called ''the velvet revolution,'' with only Romania the exception; Nicolae Ceausescu and his empress were executed.

For almost two years, the U.S.S.R. remained a one-party communist state, gradually eroding. Hard-liners attempted to resist the slow motion dis-memberment. On Aug. 19, 1991, Boris Yeltsin stood on a tank to resist a hard-line coup. The hammer-and-sickle came down; the Russian tricolor went up. Other Soviet republics declared independence, including the big guy on the block, Ukraine.

U.S. diplomats did not ''gloat'' about it. The sovereign state of Russia would be unstable enough without the United States rubbing it in.

On Dec. 4, 1991, I proposed in a column that a new national holiday be established to commemorate the end the Cold War. I asked readers to participate in a contest to: 1. Name it; 2. pick a date; and 3. propose a method of celebration.

Several hundred submissions came in. Some of the most imaginative entries for a name were: ''Defrost Day,'' ''Thaw Day,'' ''Ronald Reagan Day,'' ''Gorbachev Day,'' ''Borscht Day,'' ''Peace Through Strength Day'' ''E Day'' (which would stand for ''Evil Empire Ends Day''), ''E2D2'' (''Evil Empire Death Day''), ''Jericho Day'' ''Pax Americana Day'' and ''Kerensky Future Freedom Day'' (recalling that Mr. Yeltsin was not the first pro-democratic leader of Russia).

Scores of respondents offered ''Liberty Day,'' ''Democracy Day,'' and mostly, ''Freedom Day.'' In June of 1992, I publicly proclaimed ''Freedom Day'' the winner.

One suggestion for the date of the new holiday was June 5, for Adam Smith's birthday. But the most votes went for Nov. 9, the day the wall fell. So today I proclaim that date Freedom Day.

There were ideas about how to celebrate and commemorate Freedom Day: Build a sibling sculpture to the Statue of Liberty; eat potatoes, the universal food; build a tunnel to Russia across the Bering Strait; thank God for peace; welcome immigrants; mediate; issue a U.N. stamp; build ice sculptures; send money to feed Russians; and do something you can't do in an unfree country—make a public speech, see a dirty movie, celebrate a religion, travel across a border.

I propose that discussion on the matter of how to celebrate be put on hold until we get the holiday established.

How? Because all the major presidential candidates participate in the Cold War, they should endorse the holiday. Legislators

ought to push for it. Anyone who worked in defense industry, or paid federal taxes from 1945 to 1989, ought to support it. President Clinton ought to go to the Reagan Library to endorse it.

I met with Mark Burman of the Reagan Presidential Foundation. He says they are on board for a campaign. The other great presidential libraries—Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter—should join in.

So should anyone concerned with the teaching of American history. The holiday will remind American children that their recent ancestors preserved freedom. The Cold War generation may not be ''the greatest'' but they did their job—victory without a major hot war.

Americans can only create an American holiday. But we ought to invite all other countries to join in, Russia first. The citizens of Russia won the Cold War as surely as we did. If I were a Chinese dissident I'd promote the idea; it might give their leaders a clue.

If you like the idea, or have ideas, you may e-mail me at Watmail@aol.com. I'll pass the correspondence along to the appropriate persons, as soon as I figure out who they are.

Mr. HOYER. Mr. Speaker, I rise today to recognize the Tenth Anniversary of the fall of the Berlin Wall. Perhaps no act in the latter half of this century better represents the human quest for freedom and dignity. Perhaps no barrier more aptly symbolized the moral bankruptcy of an entire political movement—a movement that subjected its citizens to forcible detention.

As President Kennedy noted during his famous speech in West Berlin in 1963, the Wall was erected to keep its citizens within. As we all knew, the Wall was fundamentally flawed and had to come down. Its dismantling foreshadowed the collapse of the Soviet Union and communist domination of Eastern Europe. Who would have thought that less than 10 years later three former members of the Warsaw pact would become members of NATO? Who would have predicted that NATO would survive as an engine of security and democracy-building in Europe?

When I was appointed to the Helsinki Commission in 1985, there were serious questions in the United States about the viability of the Helsinki process. Had the process emphasized security at the expense of human rights? Was it perhaps time to reconsider the process in the absence of tangible progress on human rights questions?

Today, we celebrate the freedom yielded by our steadfast commitment to the process and by our demand that the former Soviet bloc countries adhere and implement the human rights standards enshrined by the Accords. The fall of the Berlin Wall transformed the world and demonstrated unreservedly the dignity of man as fundamental to democracy. The Organization for Security and Cooperation in Europe (OSCE) took a stand—that human dignity, tolerance and mutual respect would be the standards for all the nations of Europe as we entered in 1990s.

Almost immediately, the fall of the Wall ushered in new members to the OSCE—Lithuania, Latvia, Estonia and Albania. All were freed from the shackles of Soviet domination, and began to express a desire to join the Helsinki process.

Why would they want to join when in effect we had won? Because the Helsinki process could serve as a source of values and act as an agent of conflict resolution. It provided participating States with a blueprint by which to guide them away from the legacy of the past. But most importantly it reminded members—old and new—of their responsibilities to their own citizens and to each other.

This lesson would be sorely tested in the years following the Wall's fall with the dismemberment of Yugoslavia, the genocide of Bosnia, the economic collapse of Albania and the emergence of new threats to the citizens of Russia. The emphasis on rule of law in the Helsinki process would become even more relevant for all of Europe.

One year after the fall of the Wall, at the OSCE Paris Summit, former political prisoners like Vaclav Havel and Lech Walesa, who had fought for the rights espoused at Helsinki in 1975, led their countries to the table and recommitted themselves and their governments to the principles of human rights, security and economic cooperation that are the foundation of the Final Act. Today, 54 nations of Europe, the Caucasus and Central Asia are committed to the Helsinki process as participating States of the OSCE.

Mr. Speaker, as we reflect on this anniversary we understand that the countries and peoples of the region are still in transition and will be for decades to come. Great strides have been made by many former communist countries in building democratic societies and market economies. Poland, Hungary and the Czech Republic are our NATO allies and are actively pursuing admission to the European Union. Other central and eastern European countries are taking steps to join NATO and the EU. Yet, progress has been uneven and much remains to be done.

It is critical that the United States remain engaged with the peoples and governments of Europe and the countries which emerged from the former Soviet Union, especially Russia, during this difficult period. I agree with President Clinton when he said that we must ''reaffirm our determination to finish the job—to complete a Europe whole, free, democratic, and at peace, for the first time in all of history.'' It is in our strategic and national interest to do so.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 223.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

Mr. TAUZIN (during debate on H. Con. Res. 223) submitted the following conference report and statement on the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite:

CONFERENCE REPORT (H. REPT. 106–464)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1554), to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intellectual Property and Communications Omnibus Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT

Sec. 1001. Short title.
Sec. 1002. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets.
Sec. 1003. Extension of effect of amendments to section 119 of title 17, United States Code.
Sec. 1004. Computation of royalty fees for satellite carriers.
Sec. 1005. Distant signal eligibility for consumers.
Sec. 1006. Public broadcasting service satellite feed.
Sec. 1007. Application of Federal communications commission regulations.
Sec. 1008. Rules for satellite carriers retransmitting television broadcast signals.
Sec. 1009. Retransmission consent.
Sec. 1010. Severability.
Sec. 1011. Technical amendments.
Sec. 1012. Effective dates.

TITLE II—RURAL LOCAL TELEVISION SIGNALS

Sec. 2001. Short title.
Sec. 2002. Loan guarantees.
Sec. 2003. Administration of loan guarantees.
Sec. 2004. Retransmission of local television broadcast stations.
Sec. 2005. Local television service in unserved and underserved markets.
Sec. 2006. Definitions.

TITLE III—TRADEMARK CYBERPIRACY PREVENTION

Sec. 3001. Short title; references.
Sec. 3002. Cyberpiracy prevention.
Sec. 3003. Damages and remedies.
Sec. 3004. Limitation on liability.
Sec. 3005. Definitions.
Sec. 3006. Study on abusive domain name registrations involving personal names.
Sec. 3007. Historic preservation.
Sec. 3008. Savings clause.
Sec. 3009. Technical and conforming amendments.
Sec. 3010. Effective date.

TITLE IV—INVENTOR PROTECTION

Sec. 4001. Short title.

Subtitle A—Inventors' Rights

Sec. 4101. Short title.
Sec. 4102. Integrity in invention promotion services.
Sec. 4103. Effective date.

Subtitle B—Patent and Trademark Fee Fairness

Sec. 4201. Short title.
Sec. 4202. Adjustment of patent fees.

Sec. 4203. Adjustment of trademark fees.
Sec. 4204. Study on alternative fee structures.
Sec. 4205. Patent and Trademark Office Funding.
Sec. 4206. Effective date.

Subtitle C—First Inventor Defense

Sec. 4301. Short title.
Sec. 4302. Defense to patent infringement based on earlier inventor.
Sec. 4303. Effective date and applicability.

Subtitle D—Patent Term Guarantee

Sec. 4401. Short title.
Sec. 4402. Patent term guarantee authority.
Sec. 4403. Continued examination of patent applications.
Sec. 4404. Technical clarification.
Sec. 4405. Effective date.

Subtitle E—Domestic Publication of Patent Applications Published Abroad

Sec. 4501. Short title.
Sec. 4502. Publication.
Sec. 4503. Time for claiming benefit of earlier filing date.
Sec. 4504. Provisional rights.
Sec. 4505. Prior art effect of published applications.
Sec. 4506. Cost recovery for publication.
Sec. 4507. Conforming amendments.
Sec. 4508. Effective date.

Subtitle F—Optional Inter Partes Reexamination Procedure

Sec. 4601. Short title.
Sec. 4602. Ex parte reexamination of patents.
Sec. 4603. Definitions.
Sec. 4604. Optional inter partes reexamination procedures.
Sec. 4605. Conforming amendments.
Sec. 4606. Report to Congress.
Sec. 4607. Estoppel effect of reexamination.
Sec. 4608. Effective date.

Subtitle G—Patent and Trademark Office

Sec. 4701. Short title.

CHAPTER 1—UNITED STATES PATENT AND TRADEMARK OFFICE

Sec. 4711. Establishment of Patent and Trademark Office.
Sec. 4712. Powers and duties.
Sec. 4713. Organization and management.
Sec. 4714. Public advisory committees.
Sec. 4715. Conforming amendments.
Sec. 4716. Trademark Trial and Appeal Board.
Sec. 4717. Board of Patent Appeals and Interferences.
Sec. 4718. Annual report of Director.
Sec. 4719. Suspension or exclusion from practice.
Sec. 4720. Pay of Director and Deputy Director.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

Sec. 4731. Effective date.
Sec. 4732. Technical and conforming amendments.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Sec. 4741. References.
Sec. 4742. Exercise of authorities.
Sec. 4743. Savings provisions.
Sec. 4744. Transfer of assets.
Sec. 4745. Delegation and assignment.
Sec. 4746. Authority of director of the Office of Management and Budget with respect to functions transferred.
Sec. 4747. Certain vesting of functions considered transfers.
Sec. 4748. Availability of existing funds.
Sec. 4749. Definitions.

Subtitle H—Miscellaneous Patent Provisions

Sec. 4801. Provisional applications.
Sec. 4802. International applications.
Sec. 4803. Certain limitations on damages for patent infringement not applicable.
Sec. 4804. Electronic filing and publications.
Sec. 4805. Study and report on biological deposits in support of biotechnology patents.
Sec. 4806. Prior invention.
Sec. 4807. Prior art exclusion for certain commonly assigned patents.
Sec. 4808. Exchange of copies of patents with foreign countries.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 5001. Commission on online child protection.
Sec. 5002. Privacy protection for donors to public broadcasting entities.
Sec. 5003. Completion of biennial regulatory review.
Sec. 5004. Public broadcasting entities.
Sec. 5005. Technical amendments relating to vessel hull design protection.
Sec. 5006. Informal rulemaking of copyright determination.
Sec. 5007. Service of process for surety corporations.
Sec. 5008. Low-power television.

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Satellite Home Viewer Improvement Act of 1999''.

SEC. 1002. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 121 the following new section:

''§ 122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(1) the secondary transmission is made by a satellite carrier to the public;

''(2) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(3) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(A) each subscriber receiving the secondary transmission; or

''(B) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name in alphabetical order and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a).

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the network a list identifying (by name in alphabetical order and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF NETWORKS.—The submission requirements of this subsection shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register of Copyrights shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions.

''(d) NONCOMPLIANCE WITH REPORTING AND REGULATORY REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission embodying a performance or display of a work made by that television broadcast station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506 and 509, if the satellite carrier has not complied with the reporting requirements of subsection (b) or with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast signals.

''(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a performance or display of a work embodied in a primary transmission made by that television broadcast station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 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.

''(f) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR TELEVISION BROADCAST STATIONS.—

''(1) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a television broadcast station to a subscriber who does not reside in that station's local market, and is not subject to statutory licensing under section 119 or a private licensing agreement, 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, except that—

''(A) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber; and

''(B) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

''(2) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of secondarily transmitting to the public a primary transmission embodying a performance or display of a work made by a television broadcast station to subscribers who do not reside in that station's local market, and are not subject to statutory licensing under section 119 or a private licensing agreement, then in addition to the remedies under paragraph (1)—

''(A) if the pattern or practice has been carried out on a substantially nationwide basis, the court—

''(i) shall order a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmissions of that television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network); and

''(ii) may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out; and

''(B) if the pattern or practice has been carried out on a local or regional basis with respect to more than 1 television broadcast station, the court—

''(i) shall order a permanent injunction barring the secondary transmission in that locality or region by the satellite carrier of the primary transmissions of any television broadcast station; and

''(ii) may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out.

''(g) BURDEN OF PROOF.—In any action brought under subsection (f), the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a television broadcast station is made only to subscribers located within that station's local market or subscribers being served in compliance with section 119 or a private licensing agreement.

''(h) GEOGRAPHIC LIMITATIONS ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply to secondary transmissions to locations in the United States.

''(i) EXCLUSIVITY WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 or any other law (other than this section and section 119) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers of programming contained in a primary transmission made by a television broadcast station may be made without obtaining the consent of the copyright owner.

''(j) DEFINITIONS.—In this section—

''(1) 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 or indirectly through other program distribution entities.

''(2) LOCAL MARKET.—

''(A) IN GENERAL.—The term 'local market', in the case of both commercial and noncommercial television broadcast stations, means the designated market area in which a station is located, and—

''(i) in the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market; and

''(ii) in the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

''(B) COUNTY OF LICENSE.—In addition to the area described in subparagraph (A), a station's local market includes the county in which the station's community of license is located.

''(C) DESIGNATED MARKET AREA.—For purposes of subparagraph (A), the term 'designated market area' means a designated market area, as determined by Nielsen Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication.

''(3) NETWORK STATION; SATELLITE CARRIER; SECONDARY TRANSMISSION.—The terms 'network station', 'satellite carrier' and 'secondary transmission' have the meanings given such terms under section 119(d).

''(4) SUBSCRIBER.—The term 'subscriber' means a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(5) TELEVISION BROADCAST STATION.—The term 'television broadcast station'—

''(A) 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, except that such term does not include a low-power or translator television station; and

''(B) includes a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico if the station broadcasts primarily in the English language and is a network station as defined in section 119(d)(2)(A).''.

(b) INFRINGEMENT OF COPYRIGHT.—Section 501 of title 17, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) With respect to any secondary transmission that is made by a satellite carrier of a performance or display of a work embodied in a primary transmission and is actionable as an act of infringement under section 122, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local market of that station.

''(2) A television broadcast station may file a civil action against any satellite carrier that has refused to carry television broadcast signals, as required under section 122(a)(2), to enforce that television broadcast station's rights under section 338(a) of the Communications Act of 1934.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 121 the following:

''122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.''.

SEC. 1003. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

SEC. 1004. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 119(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(4) REDUCTION.—

''(A) SUPERSTATION.—The rate of the royalty fee in effect on January 1, 1998, payable in each case under subsection (b)(1)(B)(i) shall be reduced by 30 percent.

''(B) NETWORK AND PUBLIC BROADCASTING SATELLITE FEED.—The rate of the royalty fee in effect on January 1, 1998, payable under subsection (b)(1)(B)(ii) shall be reduced by 45 percent.

''(5) PUBLIC BROADCASTING SERVICE AS AGENT.—For purposes of section 802, with respect to royalty fees paid by satellite carriers for retransmitting the Public Broadcasting Service satellite feed, the Public Broadcasting Service shall be the agent for all public television copyright claimants and all Public Broadcasting Service member stations.''.

SEC. 1005. DISTANT SIGNAL ELIGIBILITY FOR CONSUMERS.

(a) UNSERVED HOUSEHOLD.—

(1) IN GENERAL.—Section 119(d) of title 17, United States Code, is amended by striking paragraph (10) and inserting the following:

''(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that—

''(A) cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network of Grade B intensity as defined by the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999;

''(B) is subject to a waiver granted under regulations established under section 339(c)(2) of the Communications Act of 1934;

''(C) is a subscriber to whom subsection (e) applies;

''(D) is a subscriber to whom subsection (a)(11) applies; or

''(E) is a subscriber to whom the exemption under subsection (a)(2)(B)(iii) applies.''.

(2) CONFORMING AMENDMENT.—Section 119(a)(2)(B) of title 17, United States Code, is amended to read as follows:

''(B) SECONDARY TRANSMISSIONS TO UNSERVED HOUSEHOLDS.—

''(i) IN GENERAL.—The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions of the signals of no more than 2 network stations in a single day for each television network to persons who reside in unserved households.

''(ii) ACCURATE DETERMINATIONS OF ELIGIBILITY.—

''(I) ACCURATE PREDICTIVE MODEL.—In determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98–201, as that model may be amended by the Commission over time under section 339(c)(3) of the Communications Act of 1934 to increase the accuracy of that model.

''(II) ACCURATE MEASUREMENTS.—For purposes of site measurements to determine whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on section 339(c)(4) of the Communications Act of 1934.

''(iii) C-BAND EXEMPTION TO UNSERVED HOUSEHOLDS.—

''(I) IN GENERAL.—The limitations of clause (i) shall not apply to any secondary transmissions by C-band services of network stations that a subscriber to C-band service received before any termination of such secondary transmissions before October 31, 1999.

''(II) DEFINITION.—In this clause the term 'C-band service' means a service that is licensed by the Federal Communications Commission and operates in the Fixed Satellite Service under part 25 of title 47 of the Code of Federal Regulations.''.

(b) EXCEPTION TO LIMITATION ON SECONDARY TRANSMISSIONS.—Section 119(a)(5) of title 17, United States Code, is amended by adding at the end the following:

''(E) EXCEPTION.—The secondary transmission by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a network station to subscribers who do not reside in unserved households shall not be an act of infringement if—

''(i) the station on May 1, 1991, was retransmitted by a satellite carrier and was not on that date owned or operated by or affiliated with a television network that offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of this section; and

''(iii) the station is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States.''.

(c) MORATORIUM ON COPYRIGHT LIABILITY.—Section 119(e) of title 17, United States Code, is amended to read as follows:

''(e) MORATORIUM ON COPYRIGHT LIABILITY.—Until December 31, 2004, a subscriber who does

not receive a signal of grade A intensity (as defined in the regulations of the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999, or predicted by the Federal Communications Commission using the Individual Location Longley-Rice methodology described by the Federal Communications Commission in Docket 98–201) of a local network television broadcast station shall remain eligible to receive signals of network stations affiliated with the same network, if that subscriber had satellite service of such network signal terminated after July 11, 1998, and before October 31, 1999, as required by this section, or received such service on October 31, 1999.''.

(d) RECREATIONAL VEHICLE AND COMMERCIAL TRUCK EXEMPTION.—Section 119(a) of title 17, United States Code, is amended by adding at the end the following:

''(11) SERVICE TO RECREATIONAL VEHICLES AND COMMERCIAL TRUCKS.—

''(A) EXEMPTION.—

''(i) IN GENERAL.—For purposes of this subsection, and subject to clauses (ii) and (iii), the term 'unserved household' shall include—

''(I) recreational vehicles as defined in regulations of the Secretary of Housing and Urban Development under section 3282.8 of title 24 of the Code of Federal Regulations; and

''(II) commercial trucks that qualify as commercial motor vehicles under regulations of the Secretary of Transportation under section 383.5 of title 49 of the Code of Federal Regulations.

''(ii) LIMITATION.—Clause (i) shall apply only to a recreational vehicle or commercial truck if any satellite carrier that proposes to make a secondary transmission of a network station to the operator of such a recreational vehicle or commercial truck complies with the documentation requirements under subparagraphs (B) and (C).

''(iii) EXCLUSION.—For purposes of this subparagraph, the terms 'recreational vehicle' and 'commercial truck' shall not include any fixed dwelling, whether a mobile home or otherwise.

''(B) DOCUMENTATION REQUIREMENTS.—A recreational vehicle or commercial truck shall be deemed to be an unserved household beginning 10 days after the relevant satellite carrier provides to the network that owns or is affiliated with the network station that will be secondarily transmitted to the recreational vehicle or commercial truck the following documents:

''(i) DECLARATION.—A signed declaration by the operator of the recreational vehicle or commercial truck that the satellite dish is permanently attached to the recreational vehicle or commercial truck, and will not be used to receive satellite programming at any fixed dwelling.

''(ii) REGISTRATION.—In the case of a recreational vehicle, a copy of the current State vehicle registration for the recreational vehicle.

''(iii) REGISTRATION AND LICENSE.—In the case of a commercial truck, a copy of—

''(I) the current State vehicle registration for the truck; and

''(II) a copy of a valid, current commercial driver's license, as defined in regulations of the Secretary of Transportation under section 383 of title 49 of the Code of Federal Regulations, issued to the operator.

''(C) UPDATED DOCUMENTATION REQUIREMENTS.—If a satellite carrier wishes to continue to make secondary transmissions to a recreational vehicle or commercial truck for more than a 2-year period, that carrier shall provide each network, upon request, with updated documentation in the form described under subparagraph (B) during the 90 days before expiration of that 2-year period.''.

(e) EXCEPTION TO SATELLITE CARRIER DEFINITION.—Section 119(d)(6) of title 17, United States Code, is amended by inserting before the period '', or provides a digital online communication service''.

(f) CONFORMING AMENDMENT.—Section 119(d)(11) of title 17, United States Code, is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

SEC. 1006. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''(1) SUPERSTATIONS AND PBS SATELLITE FEED.—'';

(2) by inserting ''or by the Public Broadcasting Service satellite feed'' after ''superstation''; and

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.''.

(b) ROYALTY FEES.—Section 119(b)(1)(B)(iii) of title 17, United States Code, is amended by inserting ''or the Public Broadcasting Service satellite feed'' after ''network station''.

(c) DEFINITIONS.—Section 119(d) of title 17, United States Code, is amended—

(1) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation'—

''(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

''(B) except for purposes of computing the royalty fee, includes the Public Broadcasting Service satellite feed.''; and

(2) by adding at the end the following:

''(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed and designated for purposes of this section by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.''.

SEC. 1007. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

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

(1) in paragraph (1), by inserting ''with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,'' after ''satellite carrier to the public for private home viewing,'';

(2) in paragraph (2), by inserting ''with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,'' after ''satellite carrier to the public for private home viewing,''; and

(3) by adding at the end of such subsection (as amended by section 1005(e) of this Act) the following new paragraph:

''(12) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—Notwithstanding any other provision of this section, the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a broadcast station licensed by the Federal Communications Commission 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, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.''.

SEC. 1008. RULES FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

(a) AMENDMENTS TO COMMUNICATIONS ACT OF 1934.—Title III of the Communications Act of 1934 is amended by inserting after section 337 (47 U.S.C. 337) the following new sections:

''SEC. 338. CARRIAGE OF LOCAL TELEVISION SIGNALS BY SATELLITE CARRIERS.

''(a) CARRIAGE OBLIGATIONS.—

''(1) IN GENERAL.—Subject to the limitations of paragraph (2), each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).

''(2) REMEDIES FOR FAILURE TO CARRY.—The remedies for any failure to meet the obligations under this subsection shall be available exclusively under section 501(f) of title 17, United States Code.

''(3) EFFECTIVE DATE.—No satellite carrier shall be required to carry local television broadcast stations under paragraph (1) until January 1, 2002.

''(b) GOOD SIGNAL REQUIRED.—

''(1) COSTS.—A television broadcast station asserting its right to carriage under subsection (a) shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

''(2) REGULATIONS.—The regulations issued under subsection (g) shall set forth the obligations necessary to carry out this subsection.

''(c) DUPLICATION NOT REQUIRED.—

''(1) COMMERCIAL STATIONS.—Notwithstanding subsection (a), a satellite carrier shall not be required to carry upon request the signal of any local commercial television broadcast station that substantially duplicates the signal of another local commercial television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or to carry upon request the signals of more than 1 local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

''(2) NONCOMMERCIAL STATIONS.—The Commission shall prescribe regulations limiting the carriage requirements under subsection (a) of satellite carriers with respect to the carriage of multiple local noncommercial television broadcast stations. To the extent possible, such regulations shall provide the same degree of carriage by satellite carriers of such multiple stations as is provided by cable systems under section 615.

''(d) CHANNEL POSITIONING.—No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels and provide access to such station's signals at a nondiscriminatory price and in a nondiscriminatory manner on any navigational device, on-screen program guide, or menu.

''(e) 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 local receive facility of the satellite carrier.

''(f) REMEDIES.—

''(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under subsections (b) through (e) of this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations. The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations. A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response 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 the satellite carrier against which a complaint is filed under paragraph (1) an 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 under paragraph (1), the Commission shall determine whether the satellite carrier has met its obligations under subsections (b) through (e). If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to take appropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of such subsections, the Commission shall dismiss the complaint.

''(g) REGULATIONS BY COMMISSION.—Within 1 year after the date of enactment of this section, the Commission shall issue regulations implementing this section following a rulemaking proceeding. The regulations prescribed under this section shall include requirements on satellite carriers that are comparable to the requirements on cable operators under sections 614(b) (3) and (4) and 615(g)(1) and (2).

''(h) DEFINITIONS.—As used in this section:

''(1) 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 or indirectly through other program distribution entities.

''(2) LOCAL RECEIVE FACILITY.—The term 'local receive facility' means the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

''(3) LOCAL MARKET.—The term 'local market' has the meaning given that term under section 122(j) of title 17, United States Code.

''(4) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given such term under section 119(d) of title 17, United States Code.

''(5) SECONDARY TRANSMISSION.—The term 'secondary transmission' has the meaning given such term in section 119(d) of title 17, United States Code.

''(6) SUBSCRIBER.—The term 'subscriber' has the meaning given that term under section 122(j) of title 17, United States Code.

''(7) TELEVISION BROADCAST STATION.—The term 'television broadcast station' has the meaning given such term in section 325(b)(7).

''SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) PROVISIONS RELATING TO CARRIAGE OF DISTANT SIGNALS.—

''(1) CARRIAGE PERMITTED.—

''(A) IN GENERAL.—Subject to section 119 of title 17, United States Code, any satellite carrier shall be permitted to provide the signals of no more than 2 network stations in a single day for each television network to any household not located within the local markets of those network stations.

''(B) ADDITIONAL SERVICE.—In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, United States Code, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the 2 signals provided under section 119 of such title.

''(2) PENALTY FOR VIOLATION.—Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this subsection shall be liable for a forfeiture penalty under section 503 in the amount of $50,000 for each violation or each day of a continuing violation.

''(b) EXTENSION OF NETWORK NONDUPLICATION, SYNDICATED EXCLUSIVITY, AND SPORTS BLACKOUT TO SATELLITE RETRANSMISSION.—

''(1) EXTENSION OF PROTECTIONS.—Within 45 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall commence a single rulemaking proceeding to establish regulations that—

''(A) apply network nonduplication protection (47 C.F.R. 76.92) syndicated exclusivity protection (47 C.F.R. 76.151), and sports blackout protection (47 C.F.R. 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

''(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 C.F.R. 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

''(2) DEADLINE FOR ACTION.—The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after such date of enactment.

''(c) ELIGIBILITY FOR RETRANSMISSION.—

''(1) SIGNAL STANDARD FOR SATELLITE CARRIER PURPOSES.—For the purposes of identifying an unserved household under section 119(d)(10) of title 17, United States Code, within 1 year after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall conclude an inquiry to evaluate all possible standards and factors for determining eligibility for retransmissions of the signals of network stations, and, if appropriate—

''(A) recommend modifications to the Grade B intensity standard for analog signals set forth in section 73.683(a) of its regulations (47 C.F.R. 73.683(a)), or recommend alternative standards or factors for purposes of determining such eligibility; and

''(B) make a further recommendation relating to an appropriate standard for digital signals.

''(2) WAIVERS.—A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17, United States Code, may request a waiver from such denial by submitting a request, through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B) of title 17, United States Code, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL REQUIRED.—Within 180 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket 98–201 and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(4) OBJECTIVE VERIFICATION.—

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal that meets the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct a test in accordance with section 73.686(d) of its regulations (47 C.F.R. 73.686(d)), or any successor regulation. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such section (or any successor regulation) demonstrate that the subscriber does not receive a signal that meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, the subscriber shall not be denied the retransmission of a signal of a network station under section 119 of title 17, United States Code.

''(B) DESIGNATION OF TESTER AND ALLOCATION OF COSTS.—If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station's signal meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, or by the network station, if its signal fails to meet or exceed such standard.

''(C) AVOIDANCE OF UNDUE BURDEN.— Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

''(d) DEFINITIONS.—For the purposes of this section:

''(1) LOCAL MARKET.—The term 'local market' has the meaning given that term under section 122(j) of title 17, United States Code.

''(2) NATIONALLY DISTRIBUTED SUPERSTATION.—The term 'nationally distributed superstation' means a television broadcast station, licensed by the Commission, that—

''(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

''(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

''(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code.

''(3) NETWORK STATION.—The term 'network station' has the meaning given such term under section 119(d) of title 17, United States Code.

''(4) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given such term under section 119(d) of title 17, United States Code.

''(5) TELEVISION NETWORK.—The term 'television network' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.''.

(b) NETWORK STATION DEFINITION.—Section 119(d)(2) of title 17, United States Code, is amended—

(1) in subparagraph (B) by striking the period and inserting a semicolon; and

(2) by adding after subparagraph (B) the following:

''except that the term does not include the signal of the Alaska Rural Communications Service, or any successor entity to that service.''.

SEC. 1009. RETRANSMISSION CONSENT.

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

(1) by amending paragraphs (1) and (2) to read as follows:

''(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 originating station;

''(B) under 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) under section 338, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

''(2) This subsection shall not apply—

''(A) to retransmission of the signal of a noncommercial television broadcast station;

''(B) to retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to its subscribers, if—

''(i) such station was a superstation on May 1, 1991;

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; and

''(iii) the satellite carrier complies with any network nonduplication, syndicated exclusivity, and sports blackout rules adopted by the Commission under section 339(b) of this Act;

''(C) until December 31, 2004, to retransmission of the signals of network stations directly to a home satellite antenna, if the subscriber receiving the signal—

''(i) is located in an area outside the local market of such stations; and

''(ii) resides in an unserved household;

''(D) to retransmission by a cable operator or other multichannel video provider, other than a satellite carrier, of the signal of a television broadcast station outside the station's local market if such signal was obtained from a satellite carrier and—

''(i) the originating station was a superstation on May 1, 1991; and

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; or

''(E) during the 6-month period beginning on the date of enactment of the Satellite Home Viewer Improvement Act of 1999, to the retransmission of the signal of a television broadcast station within the station's local market by a satellite carrier directly to its subscribers under the statutory license of section 122 of title 17, United States Code.

For purposes of this paragraph, the terms 'satellite carrier' and 'superstation' have the meanings given those terms, respectively, in section 119(d) of title 17, United States Code, as in effect on the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the term 'unserved household' has the meaning given that term under section 119(d) of such title, and the term 'local market' has the meaning given that term in section 122(j) of such title.'';

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

''(C) Within 45 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, 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 limitations contained in paragraph (2). The Commission shall complete all actions necessary to prescribe such regulations within 1 year after such date of enactment. Such regulations shall—

''(i) establish election time periods that correspond with those regulations adopted under subparagraph (B) of this paragraph; and

''(ii) until January 1, 2006, prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith, and it shall not be a failure to negotiate in good faith if the television broadcast station enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations.'';

(3) in paragraph (4), by adding at the end the following new sentence: ''If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 shall not apply to the carriage of the signal of such station by such satellite carrier.'';

(4) in paragraph (5), by striking ''614 or 615'' and inserting ''338, 614, or 615''; and

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

''(7) For purposes of this subsection, the term—

''(A) 'network station' has the meaning given such term under section 119(d) of title 17, United States Code; and

''(B) 'television broadcast station' means an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.''.

(b) ENFORCEMENT PROVISIONS FOR CONSENT FOR RETRANSMISSIONS.—Section 325 of the Communications Act of 1934 (47 U.S.C. 325) is amended by adding at the end the following new subsection:

''(e) ENFORCEMENT PROCEEDINGS AGAINST SATELLITE CARRIERS CONCERNING RETRANSMISSIONS OF TELEVISION BROADCAST STATIONS IN THE RESPECTIVE LOCAL MARKETS OF SUCH CARRIERS.—

''(1) COMPLAINTS BY TELEVISION BROADCAST STATIONS.—If after the expiration of the 6-month period described under subsection (b)(2)(E) a television broadcast station believes that a satellite carrier has retransmitted its signal to any person in the local market of such station in violation of subsection (b)(1), the station may file with the Commission a complaint providing—

''(A) the name, address, and call letters of the station;

''(B) the name and address of the satellite carrier;

''(C) the dates on which the alleged retransmission occurred;

''(D) the street address of at least 1 person in the local market of the station to whom the alleged retransmission was made;

''(E) a statement that the retransmission was not expressly authorized by the television broadcast station; and

''(F) the name and address of counsel for the station.

''(2) SERVICE OF COMPLAINTS ON SATELLITE CARRIERS.—For purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process. A television broadcast station may serve a satellite carrier with a complaint concerning an alleged violation of subsection (b)(1) through retransmission of a station within the local market of such station by filing the original and 2 copies of the complaint with the Secretary of the Commission and serving a copy of the complaint on the satellite carrier by means of 2 commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business, and each marked 'URGENT LITIGATION MATTER' on the outer packaging. Service shall be deemed complete 1 business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

''(3) ANSWERS BY SATELLITE CARRIERS.—Within 5 business days after the date of service, the satellite carrier shall file an answer with the Commission and shall serve the answer by a commonly used overnight delivery service and by United States mail, on the counsel designated in the complaint at the address listed for such counsel in the complaint.

''(4) DEFENSES.—

''(A) EXCLUSIVE DEFENSES.—The defenses under this paragraph are the exclusive defenses available to a satellite carrier against which a complaint under this subsection is filed.

''(B) DEFENSES.—The defenses referred to under subparagraph (A) are the defenses that—

''(i) the satellite carrier did not retransmit the television broadcast station to any person in the local market of the station during the time period specified in the complaint;

''(ii) the television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the local market of the television broadcast station to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of subsection (b)(1) has occurred;

''(iii) the retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under section 338 as against the satellite carrier for the relevant period; or

''(iv) the station being retransmitted is a noncommercial television broadcast station.

''(5) COUNTING OF VIOLATIONS.—The retransmission without consent of a particular television broadcast station on a particular day to 1 or more persons in the local market of the station shall be considered a separate violation of subsection (b)(1).

''(6) BURDEN OF PROOF.—With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least 1 person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i).

''(7) PROCEDURES.—

''(A) REGULATIONS.—Within 60 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall

issue procedural regulations implementing this subsection which shall supersede procedures under section 312.

''(B) DETERMINATIONS.—

''(i) IN GENERAL.—Within 45 days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

''(ii) DISCOVERY.—The Commission may direct the parties to exchange pertinent documents, and if necessary to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within 45 days.

''(8) RELIEF.—If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least 1 person in the local market of such station and has failed to meet its burden of proving 1 of the defenses under paragraph (4) with respect to such retransmission, the Commission shall be required to—

''(A) make a finding that the satellite carrier violated subsection (b)(1) with respect to that station; and

''(B) issue an order, within 45 days after the filing of the complaint, containing—

''(i) a cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with subsection (b)(1) with respect to such station;

''(ii) if the satellite carrier is found to have violated subsection (b)(1) with respect to more than 2 television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of such station, until such time as the Commission, after giving notice to the station, that the satellite carrier is in compliance with subsection (b)(1) with respect to such stations; and

''(iii) an award to the complainant of that complainant's costs and reasonable attorney's fees.

''(9) COURT PROCEEDINGS ON ENFORCEMENT OF COMMISSION ORDER.—

''(A) IN GENERAL.—On entry by the Commission of a final order granting relief under this subsection—

''(i) a television broadcast station may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a final judgment enforcing all relief granted by the Commission; and

''(ii) the satellite carrier may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a judgment reversing the Commission's order.

''(B) APPEAL.—The procedure for an appeal under this paragraph by the satellite carrier shall supersede any other appeal rights under Federal or State law. A United States district court shall be deemed to have personal jurisdiction over the satellite carrier if the carrier, or a company under common control with the satellite carrier, has delivered television programming by satellite to more than 30 customers in that district during the preceding 4-year period. If the United States District Court for the Eastern District of Virginia does not have personal jurisdiction over the satellite carrier, an enforcement action or appeal shall be brought in the United States District Court for the District of Columbia, which may find personal jurisdiction based on the satellite carrier's ownership of licenses issued by the Commission. An application by a television broadcast station for an order enforcing any cease-and-desist relief granted by the Commission shall be resolved on a highly expedited schedule. No discovery may be conducted by the parties in any such proceeding. The district court shall enforce the Commission order unless the Commission record reflects manifest error and an abuse of discretion by the Commission.

''(10) CIVIL ACTION FOR STATUTORY DAMAGES.—Within 6 months after issuance of an order by the Commission under this subsection, a television broadcast station may file a civil action in any United States district court that has personal jurisdiction over the satellite carrier for an award of statutory damages for any violation that the Commission has determined to have been committed by a satellite carrier under this subsection. Such action shall not be subject to transfer under section 1404(a) of title 28, United States Code. On finding that the satellite carrier has committed 1 or more violations of subsection (b), the District Court shall be required to award the television broadcast station statutory damages of $25,000 per violation, in accordance with paragraph (5), and the costs and attorney's fees incurred by the station. Such statutory damages shall be awarded only if the television broadcast station has filed a binding stipulation with the court that such station will donate the full amount in excess of $1,000 of any statutory damage award to the United States Treasury for public purposes. Notwithstanding any other provision of law, a station shall incur no tax liability of any kind with respect to any amounts so donated. Discovery may be conducted by the parties in any proceeding under this paragraph only if and to the extent necessary to resolve a genuinely disputed issue of fact concerning 1 of the defenses under paragraph (4). In any such action, the defenses under paragraph (4) shall be exclusive, and the burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i). A judgment under this paragraph may be enforced in any manner permissible under Federal or State law.

''(11) APPEALS.—

''(A) IN GENERAL.—The nonprevailing party before a United States district court may appeal a decision under this subsection to the United States Court of Appeals with jurisdiction over that district court. The Court of Appeals shall not issue any stay of the effectiveness of any decision granting relief against a satellite carrier unless the carrier presents clear and convincing evidence that it is highly likely to prevail on appeal and only after posting a bond for the full amount of any monetary award assessed against it and for such further amount as the Court of Appeals may believe appropriate.

''(B) APPEAL.—If the Commission denies relief in response to a complaint filed by a television broadcast station under this subsection, the television broadcast station filing the complaint may file an appeal with the United States Court of Appeals for the District of Columbia Circuit.

''(12) SUNSET.—No complaint or civil action may be filed under this subsection after December 31, 2001. This subsection shall continue to apply to any complaint or civil action filed on or before such date.''.

SEC. 1010. SEVERABILITY.

If any provision of section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

SEC. 1011. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENTS RELATING TO CABLE SYSTEMS.—Title 17, United States Code is amended as follows:

(1) Such title is amended—

(A) by striking ''cable system'' and ''cable systems'' each place it appears (other than chapter 12) and inserting ''terrestrial system'' and ''terrestrial systems'', respectively;

(B) by striking ''cable service'' each place it appears and inserting ''terrestrial service''; and

(C) by striking ''programing' each place it appears and inserting ''programming''.

(2) Section 111(d)(1)(C) is amended by striking ''cable system's'' and inserting ''terrestrial system's''.

(3) Section 111 is amended in the subsection headings for subsections (c), (d), and (e), by striking ''CABLE'' and inserting ''TERRESTRIAL''.

(4) Chapter 5 is amended—

(A) in the table of contents by amending the item relating to section 510 to read as follows:

''Sec. 510. Remedies for alteration of programming by terrestrial systems.'';

and

(B) by amending the section heading for section 510 to read as follows:

''§ 510. Remedies for alteration of programming by terrestrial systems''.

(5) Section 801(b)(2)(A) is amended—

(A) by striking ''cable subscribers'' and inserting ''terrestrial service subscribers''; and

(B) by striking ''cable industry'' and inserting ''terrestrial service industry''.

(6) Section 111 is amended by striking ''compulsory'' each place it appears and inserting ''statutory''.

(7) Section 510(b) is amended by striking ''compulsory'' and inserting ''statutory''.

(b) TECHNICAL AMENDMENTS RELATING TO PERFORMANCE OR DISPLAYS OF WORKS.—

(1) Section 111 of title 17, United States Code, is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''primary transmission embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission'';

(B) in subsection (b), in the matter preceding paragraph (1), by striking ''primary transmission embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission''; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting ''a performance or display of a work embodied in'' after ''by a terrestrial system of''; and

(II) by striking ''and embodying a performance or display of a work''; and

(ii) in paragraphs (3) and (4)—

(I) by striking ''a primary transmission'' and inserting ''a performance or display of a work embodied in a primary transmission''; and

(II) by striking ''and embodying a performance or display of a work''.

(2) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (1), by striking ''primary transmission made by a superstation and embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission made by a superstation'';

(B) in paragraph (2)(A), by striking ''programming'' and all that follows through ''a work'' and inserting ''a performance or display of a work embodied in a primary transmission made by a network station'';

(C) in paragraph (4)—

(i) by inserting ''a performance or display of a work embodied in'' after ''by a satellite carrier of''; and

(ii) by striking ''and embodying a performance or display of a work''; and

(D) in paragraph (6)—

(i) by inserting ''performance or display of a work embodied in'' after ''by a satellite carrier of''; and

(ii) by striking ''and embodying a performance or display of a work''.

(3) Section 501(e) of title 17, United States Code, is amended by striking ''primary transmission embodying the performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission''.

(c) TECHNICAL AMENDMENT RELATING TO TERRESTRIAL SYSTEMS.—Section 111(f) of title 17, United States Code, is amended in the first sentence of the definition of 'terrestrial system', by inserting '', other than a digital online communication service,'' after ''other communications channels''.

(d) CONFORMING AMENDMENT.—Section 119(a)(2)(C) of title 17, United States Code, is amended in the first sentence by striking ''currently''.

(e) WORK MADE FOR HIRE.—Section 101 of title 17, United States Code, is amended in the definition relating to work for hire in paragraph (2) by inserting ''as a sound recording,'' after ''audiovisual work''.

SEC. 1012. EFFECTIVE DATES.

Sections 1001, 1003, 1005, 1007, 1008, 1009, 1010, and 1011 (and the amendments made by such sections) shall take effect on the date of enactment of this Act. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

TITLE II—RURAL LOCAL TELEVISION SIGNALS

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Rural Local Broadcast Signal Act''.

SEC. 2002. LOAN GUARANTEES.

(a) PURPOSE.—The purpose of this title is to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

(b) ASSISTANCE TO BORROWERS.—Subject to the appropriations limitation under subsection (c)(2), the Secretary, after consultation with the Secretary of the Treasury and the Federal Communications Commission, may provide loan guarantees to borrowers to finance projects to provide local television broadcast signals by providers of multichannel video services including direct broadcast satellite licensees and licensees of multichannel multipoint distribution systems, to areas that do not receive local television broadcast signals over commercial for-profit direct-to-home satellite distribution systems. A borrower that receives a loan guarantee under this title may not transfer any part of the proceeds of the monies from the loans guaranteed under this program to an affiliate of the borrower.

(c) UNDERWRITING CRITERIA; PREREQUISITES.—

(1) IN GENERAL.—The Secretary shall administer the underwriting criteria developed under subsection (f)(1) to determine which loans are eligible for a guarantee under this title.

(2) AUTHORITY TO MAKE LOAN GUARANTEES.—The Secretary shall be authorized to guarantee loans under this title only to the extent provided for in advance by appropriations Acts.

(3) PREREQUISITES.—In addition to meeting the underwriting criteria under paragraph (1), a loan is not eligible for a loan guarantee under this title unless—

(A) the loan is made to finance the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means by which local television broadcast signals will be delivered to an area not receiving such signals over commercial for-profit direct-to-home satellite distribution systems;

(B) the proceeds of the loan will not be used for operating expenses;

(C) the total amount of all such loans may not exceed in the aggregate $1,250,000,000;

(D) the loan does not exceed $100,000,000, except that 1 loan under this title may exceed $100,000,000, but shall not exceed $625,000,000;

(E) the loan bears interest and penalties which, in the Secretary's judgment, are not unreasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market; and

(F) the Secretary determines that taking into account the practices of the private capital markets with respect to the financing of similar projects, the security of the loan is adequate.

(4) ADDITIONAL CRITERIA.—In addition to the requirements of paragraphs (1), (2), and (3), a loan for which a guarantee is sought under this title shall meet any additional criteria promulgated under subsection (f)(1).

(d) ADDITIONAL REQUIREMENTS.—The Secretary may not make a loan guarantee under this title unless—

(1) repayment of the obligation is required to be made within a term of the lesser of—

(A) 25 years from the date of its execution; or

(B) the useful life of the primary assets used in the delivery of relevant signals;

(2) the Secretary has been given the assurances and documentation necessary to review and approve the guaranteed loans;

(3) the Secretary makes a determination in writing that—

(A) the applicant has given reasonable assurances that the assets, facilities, or equipment will be utilized economically and efficiently;

(B) necessary and sufficient regulatory approvals, spectrum rights, and delivery permissions have been received by project participants to assure the project's ability to repay obligations under this title; and

(C) repayment of the obligation can reasonably be expected, including the use of an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

(e) APPROVAL OF NTIA REQUIRED.—

(1) IN GENERAL.—The Secretary may not issue a loan guarantee under this title unless the National Telecommunications and Information Administration consults with the Secretary and certifies that—

(A) the issuance of the loan guarantee is consistent with subsection (a) of this section; and

(B) consistent with subsection (b) of this section, the project to be financed by a loan guaranteed under this section is not likely to have a substantial adverse impact on competition between multichannel video programming distributors that outweighs the benefits of improving access to the signals of a local television station by a multichannel video provider.

(2) CERTIFICATION.—The Secretary shall provide the appropriate information on each loan guarantee application recommended by the Secretary to the National Telecommunications and Information Administration for certification. The National Telecommunications and Information Administration shall make the determination required under this subsection within 90 days, without regard to the provision of chapter 5 of title 5, United States Code, and sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) REQUIREMENTS.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary shall consult with the Office of Management and Budget and an independent public accounting firm to develop underwriting criteria relating to the issuance of loan guarantees, appropriate collateral and cash flow levels for the types of loan guarantees that might be issued under this title, and such other matters as the Secretary determines appropriate.

(2) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance under this title a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the applicant's loan. The aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a loan guarantee may not be less than the cost of that loan guarantee.

(3) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

(A) the circumstances of the applicant, including the amount of collateral offered;

(B) the proposed schedule of loan disbursements;

(C) the borrower's business plans for providing service;

(D) financial commitment from the broadcast signal provider;

(E) approval of the Office of Management and Budget; and

(F) any other factors the Secretary considers relevant.

(4) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to an account established in the Treasury which shall accrue interest and such interest shall be retained by the account, subject to paragraph (5).

(5) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary in consultation with the Office of Management and Budget shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis.

(g) CONDITIONS OF ASSISTANCE.—A borrower shall agree to such terms and conditions as are sufficient, in the judgment of the Secretary to ensure that, as long as any principal or interest is due and payable on such obligation, the borrower—

(1) will maintain assets, equipment, facilities, and operations on a continuing basis;

(2) will not make any discretionary dividend payments that reduce the ability to repay obligations incurred under this section; and

(3) will remain sufficiently capitalized.

(h) LIEN ON INTERESTS IN ASSETS.—Upon providing a loan guarantee to a borrower under this title, the Secretary shall have liens which shall be superior to all other liens on assets of the borrower equal to the unpaid balance of the loan subject to such guarantee.

(i) PERFECTED INTEREST.—The Secretary and the lender shall have a perfected security interest in those assets of the borrower fully sufficient to protect the Secretary and the lender.

(j) INSURANCE POLICIES.—In accordance with practices of private lenders, as determined by the Secretary, the borrower shall obtain, at its expense, insurance sufficient to protect the interests of the Federal Government, as determined by the Secretary.

(k) SPECIAL PROVISION FOR SATELLITE CARRIERS.—No satellite carrier that provided television broadcast signals to subscribers on October 1, 1999, and no company that is an affiliate of any such carrier, shall be eligible for a loan guarantee under this section if either the carrier or its affiliate holds a license for unused spectrum that would be suitable for delivering local television signals into unserved and underserved markets.

(l) AUTHORIZATION OF APPROPRIATIONS.—For the additional costs of the loans guaranteed under this title, including the cost of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661(a)),

there are authorized to be appropriated for fiscal years 2000 through 2006, such amounts as may be necessary. In addition there are authorized to be appropriated such sums as may be necessary to administer this title. Any amounts appropriated under this subsection shall remain available until expended.

SEC. 2003. ADMINISTRATION OF LOAN GUARANTEES.

(a) APPLICATIONS.—The Secretary shall prescribe the form and contents for an application for a loan guarantee under section 2002.

(b) ASSIGNMENT OF LOAN GUARANTEES.—The holder of a loan guaranteed under this title may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

(c) MODIFICATIONS.—The Secretary may approve the modification of any term or condition of a loan guarantee including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that—

(1) the modification is equitable and is in the overall best interests of the United States;

(2) consent has been obtained from the borrower and the lender;

(3) the modification is consistent with the objective underwriting criteria developed in consultation with the Office of Management and Budget and an independent public accounting firm under section 2002(f);

(4) the modification does not adversely affect the Federal Government's interest in the entity's assets or loan collateral;

(5) the modification does not adversely affect the entity's ability to repay the loan; and

(6) the National Telecommunications and Information Administration does not object to the modification on the ground that it is inconsistent with the certification under section 2002(e).

(d) PRIORITY MARKETS.—

(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall give priority to projects which serve the most underserved rural markets, as determined by the Secretary. In making prioritization determinations, the Secretary shall consider prevailing market conditions, feasibility of providing service, population, terrain, and other factors the Secretary determines appropriate.

(2) PRIORITY RELATING TO CONSUMER COSTS AND SEPARATE TIER OF SIGNALS.—The Secretary shall give priority to projects that—

(A) offer a separate tier of local broadcast signals; and

(B) provide lower projected costs to consumers of such separate tier.

(3) PERFORMANCE SCHEDULES.—Applicants for priority projects under this section shall enter into stipulated performance schedules with the Secretary.

(4) PENALTY.—The Secretary may assess a borrower a penalty not to exceed 3 times the interest due on the guaranteed loan, if the borrower fails to meet its stipulated performance schedule. The penalty shall be paid to the account established by the Treasury under section 2002.

(5) LIMITATION ON CONSIDERATION OF MOST POPULATED AREAS.—The Secretary shall not provide a loan guarantee for a project that is primarily designed to serve the 40 most populated designated market areas and shall take into consideration the importance of serving rural markets that are not likely to be otherwise offered service under section 122 of title 17, United States Code, except through the loan guarantee program under this title.

(e) COMPLIANCE.—The Secretary shall enforce compliance by an applicant and any other party to the loan guarantee for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the loan guarantee, including through regular periodic inspections and audits.

(f) COMMERCIAL VALIDITY.—For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of the title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(g) DEFAULTS.—The Secretary shall prescribe regulations governing a default on a loan guaranteed under this title.

(h) RIGHTS OF THE SECRETARY.—

(1) SUBROGATION.—If the Secretary authorizes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 2002, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

(2) DISPOSITION OF PROPERTY.—The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, rent, sell, or otherwise dispose of any property or other interests obtained under this section in a manner that maximizes taxpayer return and is consistent with the public convenience and necessity.

(3) WARRANTS.—To ensure that the United States Government is compensated for the risk in making guarantees under this title, the Secretary shall enter into contracts under which the Government, contingent on the financial success of the borrower, would participate in a percentage of the gains of any for profit borrower or its security holders in connection with the project funded by loans so guaranteed.

(i) ACTION AGAINST OBLIGOR.—The Secretary may bring a civil action in an appropriate district court of the United States in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under this title. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

(2) any other cost to the United States of remedying the default, the Secretary shall pay such excess to the obligor.

(j) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in a court of appropriate jurisdiction to enjoin any activity which the Secretary finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief, including relief against any affiliate of the borrower.

(k) ATTACHMENT.—No attachment or execution may be issued against the Secretary or any property in the control of the Secretary prior to the entry of final judgment to such effect in any State, Federal, or other court.

(l) INVESTIGATION CHARGE AND FEES.—

(1) APPRAISAL FEE.—The Secretary may charge and collect from an applicant a reasonable fee for appraisal for the value of the equipment or facilities for which the loan guarantee is sought, and for making necessary determinations and findings. The fee may not, in the aggregate, be more than one-half of one percent of the principal amount of the obligation. The fee imposed under this paragraph shall be used to offset the administrative costs of the program.

(2) LOAN ORIGINATION FEE.—The Secretary may charge a loan origination fee.

(m) ANNUAL AUDIT.—The General Accounting Office shall annually audit the administration of this title and report the results to the Agriculture, Appropriations, and Judiciary Committees of the Senate and the House of Representatives, the House of Representatives Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Banking, Housing, and Urban Affairs, and the House of Representatives Committee on Banking and Financial Services.

(n) INDEMNIFICATION.—An affiliate of the borrower shall indemnify the Government for any losses it incurs as a result of—

(1) a judgment against the borrower;

(2) any breach by the borrower of its obligations under the loan guarantee agreement;

(3) any violation of the provisions of this title by the borrower;

(4) any penalties incurred by the borrower for any reason, including the violation of the stipulated performance; and

(5) any other circumstances that the Secretary determines to be appropriate.

(o) SUNSET.—The Secretary may not approve a loan guarantee under this title after December 31, 2006.

SEC. 2004. RETRANSMISSION OF LOCAL TELEVISION BROADCAST STATIONS.

A borrower shall be subject to applicable rights, obligations, and limitations of title 17, United States Code. If a local broadcast station requests carriage of its signal and is located in a market not served by a satellite carrier providing service under a statutory license under section 122 of title 17, United States Code, the borrower shall carry the signal of that station without charge and shall be subject to the applicable rights, obligations, and limitations of sections 338, 614, and 615 of the Communications Act of 1934.

SEC. 2005. LOCAL TELEVISION SERVICE IN UNSERVED AND UNDERSERVED MARKETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall take all actions necessary to make a determination regarding licenses or other authorizations for facilities that will utilize, for delivering local broadcast television station signals to satellite television subscribers in unserved and underserved local television markets, spectrum otherwise allocated to commercial use.

(b) RULES.—

(1) FORM OF BUSINESS.—To the extent not inconsistent with the Communications Act of 1934 and the Commission's rules, the Commission shall permit applicants under subsection (a) to engage in partnerships, joint ventures, and similar operating arrangements for the purpose of carrying out subsection (a).

(2) HARMFUL INTERFERENCE.—The Commission shall ensure that no facility licensed or authorized under subsection (a) causes harmful interference to the primary users of that spectrum or to public safety spectrum use.

(3) LIMITATION ON COMMISSION.—Except as provided in paragraphs (1) and (2), the Commission may not restrict any entity granted a license or other authorization under subsection (a) from using any reasonable compression, reformatting, or other technology.

(c) REPORT.—Not later than January 1, 2001, the Commission shall report to the Agriculture, Appropriations, and Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Commerce, on the extent to which licenses and other authorizations under subsection (a) have facilitated the delivery of local signals to satellite television subscribers in unserved and underserved local television markets. The report shall include—

(1) an analysis of the extent to which local signals are being provided by direct-to-home satellite television providers and by other multichannel video program distributors;

(2) an enumeration of the technical, economic, and other impediments each type of multichannel video programming distributor has encountered; and

(3) recommendations for specific measures to facilitate the provision of local signals to subscribers in unserved and underserved markets by direct-to-home satellite television providers and by other distributors of multichannel video programming service.

SEC. 2006. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term ''affiliate'' means any person or entity that controls, or is controlled by, or is under common control with, another person or entity.

(2) BORROWER.—The term ''borrower'' means any person or entity receiving a loan guarantee under this program.

(3) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(4) COST.—

(A) IN GENERAL.—The term ''cost'' means the estimated long-term cost to the Government of a loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) LOAN GUARANTEES.—For purposes of this paragraph the cost of a loan guarantee—

(i) shall be the net present value, at the time when the guaranteed loan is disbursed, of the estimated cash flows of—

(I) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments;

(II) payments to the Government, including origination and other fees, penalties, and recoveries; and

(ii) shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(C) COST OF MODIFICATION.—The cost of the modification shall be the difference between the current estimate of the net present value of the remaining cash flows under the terms of a loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(D) DISCOUNT RATE.—In estimating net present value, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the guarantee for which the estimate is being made.

(E) FISCAL YEAR ASSUMPTIONS.—When funds of a loan guarantee under this title are obligated, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(5) CURRENT.—The term ''current'' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) DESIGNATED MARKET AREA.—The term ''designated market area'' has the meaning given that term under section 122(j) of title 17, United States Code.

(7) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any debt obligation of a non-Federal borrower to the Federal Financing Bank or a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(8) MODIFICATION.—The term ''modification'' means any Government action that alters the estimated cost of an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows, including the sale of loan assets, with or without recourse, and the purchase of guaranteed loans.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(10) COMMON TERMS.—Except as provided in paragraphs (1) through (9), any term used in this title that is defined in the Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given it in that Act.

TITLE III—TRADEMARK CYBERPIRACY PREVENTION

SEC. 3001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the ''Anticybersquatting Consumer Protection Act''.

(b) REFERENCES TO THE TRADEMARK ACT OF 1946.—Any reference in this title to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

SEC. 3002. CYBERPIRACY PREVENTION.

(a) IN GENERAL.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by inserting at the end the following:

''(d)(1)(A) A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person—

''(i) has a bad faith intent to profit from that mark, including a personal name which is protected as a mark under this section; and

''(ii) registers, traffics in, or uses a domain name that—

''(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

''(II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or

''(III) is a trademark, word, or name protected by reason of section 706 of title 18, United States Code, or section 220506 of title 36, United States Code.

''(B)(i) In determining whether a person has a bad faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—

''(I) the trademark or other intellectual property rights of the person, if any, in the domain name;

''(II) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

''(III) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

''(IV) the person's bona fide noncommercial or fair use of the mark in a site accessible under the domain name;

''(V) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

''(VI) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

''(VII) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

''(VIII) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of the parties; and

''(IX) the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c)(1) of section 43.

''(ii) Bad faith intent described under subparagraph (A) shall not be found in any case in which the court determines that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

''(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

''(D) A person shall be liable for using a domain name under subparagraph (A) only if that person is the domain name registrant or that registrant's authorized licensee.

''(E) As used in this paragraph, the term 'traffics in' refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

''(2)(A) The owner of a mark may file an in rem civil action against a domain name in the judicial district in which the domain name registrar, domain name registry, or other domain name authority that registered or assigned the domain name is located if—

''(i) the domain name violates any right of the owner of a mark registered in the Patent and Trademark Office, or protected under subsection (a) or (c); and

''(ii) the court finds that the owner—

''(I) is not able to obtain in personam jurisdiction over a person who would have been a defendant in a civil action under paragraph (1); or

''(II) through due diligence was not able to find a person who would have been a defendant in a civil action under paragraph (1) by—

''(aa) sending a notice of the alleged violation and intent to proceed under this paragraph to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and

''(bb) publishing notice of the action as the court may direct promptly after filing the action.

''(B) The actions under subparagraph (A)(ii) shall constitute service of process.

''(C) In an in rem action under this paragraph, a domain name shall be deemed to have its situs in the judicial district in which—

''(i) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located; or

''(ii) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

''(D)(i) The remedies in an in rem action under this paragraph shall be limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark. Upon receipt of written notification of a filed, stamped copy of a complaint filed by the owner of a mark in a United States district court under this paragraph, the domain name registrar, domain name registry, or other domain name authority shall—

''(I) expeditiously deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court; and

''(II) not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court.

''(ii) The domain name registrar or registry or other domain name authority shall not be liable

for injunctive or monetary relief under this paragraph except in the case of bad faith or reckless disregard, which includes a willful failure to comply with any such court order.

''(3) The civil action established under paragraph (1) and the in rem action established under paragraph (2), and any remedy available under either such action, shall be in addition to any other civil action or remedy otherwise applicable.

''(4) The in rem jurisdiction established under paragraph (2) shall be in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.''.

(b) CYBERPIRACY PROTECTIONS FOR INDIVIDUALS.—

(1) IN GENERAL.—

(A) CIVIL LIABILITY.—Any person who registers a domain name that consists of the name of another living person, or a name substantially and confusingly similar thereto, without that person's consent, with the specific intent to profit from such name by selling the domain name for financial gain to that person or any third party, shall be liable in a civil action by such person.

(B) EXCEPTION.—A person who in good faith registers a domain name consisting of the name of another living person, or a name substantially and confusingly similar thereto, shall not be liable under this paragraph if such name is used in, affiliated with, or related to a work of authorship protected under title 17, United States Code, including a work made for hire as defined in section 101 of title 17, United States Code, and if the person registering the domain name is the copyright owner or licensee of the work, the person intends to sell the domain name in conjunction with the lawful exploitation of the work, and such registration is not prohibited by a contract between the registrant and the named person. The exception under this subparagraph shall apply only to a civil action brought under paragraph (1) and shall in no manner limit the protections afforded under the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) or other provision of Federal or State law.

(2) REMEDIES.—In any civil action brought under paragraph (1), a court may award injunctive relief, including the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. The court may also, in its discretion, award costs and attorneys fees to the prevailing party.

(3) DEFINITION.—In this subsection, the term ''domain name'' has the meaning given that term in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127).

(4) EFFECTIVE DATE.—This subsection shall apply to domain names registered on or after the date of enactment of this Act.

SEC. 3003. DAMAGES AND REMEDIES.

(a) REMEDIES IN CASES OF DOMAIN NAME PIRACY.—

(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking ''(a) or (c)'' and inserting ''(a), (c), or (d)''.

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting '', (c), or (d)'' after ''section 43(a)''.

(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

''(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just.

SEC. 3004. LIMITATION ON LIABILITY.

Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—

(1) in the matter preceding subparagraph (A) by striking ''under section 43(a)'' and inserting ''under section 43(a) or (d)''; and

(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

''(D)(i)(I) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary relief or, except as provided in subclause (II), for injunctive relief, to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.

''(II) A domain name registrar, domain name registry, or other domain name registration authority described in subclause (I) may be subject to injunctive relief only if such registrar, registry, or other registration authority has—

''(aa) not expeditiously deposited with a court, in which an action has been filed regarding the disposition of the domain name, documents sufficient for the court to establish the court's control and authority regarding the disposition of the registration and use of the domain name;

''(bb) transferred, suspended, or otherwise modified the domain name during the pendency of the action, except upon order of the court; or

''(cc) willfully failed to comply with any such court order.

''(ii) An action referred to under clause (i)(I) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—

''(I) in compliance with a court order under section 43(d); or

''(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another's mark.

''(iii) A domain name registrar, a domain name registry, or other domain name registration authority shall not be liable for damages under this section for the registration or maintenance of a domain name for another absent a showing of bad faith intent to profit from such registration or maintenance of the domain name.

''(iv) If a registrar, registry, or other registration authority takes an action described under clause (ii) based on a knowing and material misrepresentation by any other person that a domain name is identical to, confusingly similar to, or dilutive of a mark, the person making the knowing and material misrepresentation shall be liable for any damages, including costs and attorney's fees, incurred by the domain name registrant as a result of such action. The court may also grant injunctive relief to the domain name registrant, including the reactivation of the domain name or the transfer of the domain name to the domain name registrant.

''(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act. The court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.''.

SEC. 3005. DEFINITIONS.

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the undesignated paragraph defining the term ''counterfeit'' the following:

''The term 'domain name' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

''The term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).''.

SEC. 3006. STUDY ON ABUSIVE DOMAIN NAME REGISTRATIONS INVOLVING PERSONAL NAMES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Patent and Trademark Office and the Federal Election Commission, shall conduct a study and report to Congress with recommendations on guidelines and procedures for resolving disputes involving the registration or use by a person of a domain name that includes the personal name of another person, in whole or in part, or a name confusingly similar thereto, including consideration of and recommendations for—

(1) protecting personal names from registration by another person as a second level domain name for purposes of selling or otherwise transferring such domain name to such other person or any third party for financial gain;

(2) protecting individuals from bad faith uses of their personal names as second level domain names by others with malicious intent to harm the reputation of the individual or the goodwill associated with that individual's name;

(3) protecting consumers from the registration and use of domain names that include personal names in the second level domain in manners which are intended or are likely to confuse or deceive the public as to the affiliation, connection, or association of the domain name registrant, or a site accessible under the domain name, with such other person, or as to the origin, sponsorship, or approval of the goods, services, or commercial activities of the domain name registrant;

(4) protecting the public from registration of domain names that include the personal names of government officials, official candidates, and potential official candidates for Federal, State, or local political office in the United States, and the use of such domain names in a manner that disrupts the electoral process or the public's ability to access accurate and reliable information regarding such individuals;

(5) existing remedies, whether under State law or otherwise, and the extent to which such remedies are sufficient to address the considerations described in paragraphs (1) through (4); and

(6) the guidelines, procedures, and policies of the Internet Corporation for Assigned Names and Numbers and the extent to which they address the considerations described in paragraphs (1) through (4).

(b) GUIDELINES AND PROCEDURES.—The Secretary of Commerce shall, under its Memorandum of Understanding with the Internet Corporation for Assigned Names and Numbers, collaborate to develop guidelines and procedures for resolving disputes involving the registration or use by a person of a domain name that includes the personal name of another person, in whole or in part, or a name confusingly similar thereto.

SEC. 3007. HISTORIC PRESERVATION.

Section 101(a)(1)(A) of the National Historic Preservation Act (16 U.S.C. 470a(a)(1)(A)) is amended by adding at the end the following: ''Notwithstanding section 43(c) of the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (commonly known as the 'Trademark Act of 1946' (15 U.S.C. 1125(c))), buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.''.

SEC. 3008. SAVINGS CLAUSE.

Nothing in this title shall affect any defense available to a defendant under the Trademark Act of 1946 (including any defense under section

43(c)(4) of such Act or relating to fair use) or a person's right of free speech or expression under the first amendment of the United States Constitution.

SEC. 3009. TECHNICAL AND CONFORMING AMENDMENTS.

Chapter 85 of title 28, United States Code, is amended as follows:

(1) Section 1338 of title 28, United States Codes, is amended—

*(A) in the section heading by striking ''**trademarks**'' and inserting ''**trademarks**'';*

(B) in subsection (a) by striking ''trademarks'' and inserting ''trademarks''; and

(C) in subsection (b) by striking ''trade-mark'' and inserting ''trademark''.

(2) The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking ''trademarks'' and inserting ''trademarks''.

SEC. 3010. EFFECTIVE DATE.

Sections 3002(a), 3003, 3004, 3005, and 3008 of this title shall apply to all domain names registered before, on, or after the date of enactment of this Act, except that damages under subsection (a) or (d) of section 35 of the Trademark Act of 1946 (15 U.S.C. 1117), as amended by section 3003 of this title, shall not be available with respect to the registration, trafficking, or use of a domain name that occurs before the date of enactment of this Act.

TITLE IV—INVENTOR PROTECTION

SEC. 4001. SHORT TITLE.

This title may be cited as the ''American Inventors Protection Act of 1999''.

Subtitle A—Inventors' Rights

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the ''Inventors' Rights Act of 1999''.

SEC. 4102. INTEGRITY IN INVENTION PROMOTION SERVICES.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 297. Improper and deceptive invention promotion

''(a) IN GENERAL.—An invention promoter shall have a duty to disclose the following information to a customer in writing, prior to entering into a contract for invention promotion services:

''(1) the total number of inventions evaluated by the invention promoter for commercial potential in the past 5 years, as well as the number of those inventions that received positive evaluations, and the number of those inventions that received negative evaluations;

''(2) the total number of customers who have contracted with the invention promoter in the past 5 years, not including customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention promoter, or who have defaulted in their payment to the invention promoter;

''(3) the total number of customers known by the invention promoter to have received a net financial profit as a direct result of the invention promotion services provided by such invention promoter;

''(4) the total number of customers known by the invention promoter to have received license agreements for their inventions as a direct result of the invention promotion services provided by such invention promoter; and

''(5) the names and addresses of all previous invention promotion companies with which the invention promoter or its officers have collectively or individually been affiliated in the previous 10 years.

''(b) CIVIL ACTION.—(1) Any customer who enters into a contract with an invention promoter and who is found by a court to have been injured by any material false or fraudulent statement or representation, or any omission of material fact, by that invention promoter (or any agent, employee, director, officer, partner, or independent contractor of such invention promoter), or by the failure of that invention promoter to disclose such information as required under subsection (a), may recover in a civil action against the invention promoter (or the officers, directors, or partners of such invention promoter), in addition to reasonable costs and attorneys' fees—

''(A) the amount of actual damages incurred by the customer; or

''(B) at the election of the customer at any time before final judgment is rendered, statutory damages in a sum of not more than $5,000, as the court considers just.

''(2) Notwithstanding paragraph (1), in a case where the customer sustains the burden of proof, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or willfully failed to disclose such information as required under subsection (a), with the purpose of deceiving that customer, the court may increase damages to not more than 3 times the amount awarded, taking into account past complaints made against the invention promoter that resulted in regulatory sanctions or other corrective actions based on those records compiled by the Commissioner of Patents under subsection (d).

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

''(1) a 'contract for invention promotion services' means a contract by which an invention promoter undertakes invention promotion services for a customer;

''(2) a 'customer' is any individual who enters into a contract with an invention promoter for invention promotion services;

''(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs invention promotion services for, or on behalf of, a customer, and who holds itself out through advertising in any mass media as providing such services, but does not include—

''(A) any department or agency of the Federal Government or of a State or local government;

''(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986;

''(C) any person or entity involved in the evaluation to determine commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application;

''(D) any party participating in a transaction involving the sale of the stock or assets of a business; or

''(E) any party who directly engages in the business of retail sales of products or the distribution of products; and

''(4) the term 'invention promotion services' means the procurement or attempted procurement for a customer of a firm, corporation, or other entity to develop and market products or services that include the invention of the customer.

''(d) RECORDS OF COMPLAINTS.—

''(1) RELEASE OF COMPLAINTS.—The Commissioner of Patents shall make all complaints received by the Patent and Trademark Office involving invention promoters publicly available, together with any response of the invention promoters. The Commissioner of Patents shall notify the invention promoter of a complaint and provide a reasonable opportunity to reply prior to making such complaint publicly available.

''(2) REQUEST FOR COMPLAINTS.—The Commissioner of Patents may request complaints relating to invention promotion services from any Federal or State agency and include such complaints in the records maintained under paragraph (1), together with any response of the invention promoters.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

''§ 297. Improper and deceptive invention promotion.''.

SEC. 4103. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 60 days after the date of enactment of this Act.

Subtitle B—Patent and Trademark Fee Fairness

SEC. 4201. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Fee Fairness Act of 1999''.

SEC. 4202. ADJUSTMENT OF PATENT FEES.

(a) ORIGINAL FILING FEE.—Section 41(a)(1)(A) of title 35, United States Code, relating to the fee for filing an original patent application, is amended by striking ''$760'' and inserting ''$690''.

(b) REISSUE FEE.—Section 41(a)(4)(A) of title 35, United States Code, relating to the fee for filing for a reissue of a patent, is amended by striking ''$760'' and inserting ''$690''.

(c) NATIONAL FEE FOR CERTAIN INTERNATIONAL APPLICATIONS.—Section 41(a)(10) of title 35, United States Code, relating to the national fee for certain international applications, is amended by striking ''$760'' and inserting ''$690''.

(d) MAINTENANCE FEES.—Section 41(b)(1) of title 35, United States Code, relating to certain maintenance fees, is amended by striking ''$940'' and inserting ''$830''.

SEC. 4203. ADJUSTMENT OF TRADEMARK FEES.

Notwithstanding the second sentence of section 31(a) of the Trademark Act of 1946 (15 U.S.C. 111(a)), the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office is authorized in fiscal year 2000 to adjust trademark fees without regard to fluctuations in the Consumer Price Index during the preceding 12 months.

SEC. 4204. STUDY ON ALTERNATIVE FEE STRUCTURES.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall conduct a study of alternative fee structures that could be adopted by the United States Patent and Trademark Office to encourage maximum participation by the inventor community in the United States. The Director shall submit such study to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the date of enactment of this Act.

SEC. 4205. PATENT AND TRADEMARK OFFICE FUNDING.

Section 42(c) of title 35, United States Code, is amended in the second sentence—

(1) by striking ''Fees available'' and inserting ''All fees available''; and

(2) by striking ''may'' and inserting ''shall''.

SEC. 4206. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) SECTION 4202.—The amendments made by section 4202 of this subtitle shall take effect 30 days after the date of enactment of this Act.

Subtitle C—First Inventor Defense

SEC. 4301. SHORT TITLE.

This subtitle may be cited as the ''First Inventor Defense Act of 1999''.

SEC. 4302. DEFENSE TO PATENT INFRINGEMENT BASED ON EARLIER INVENTOR.

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 273. Defense to infringement based on earlier inventor

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

''(1) the terms 'commercially used' and 'commercial use' mean use of a method in the United States, so long as such use is in connection with an internal commercial use or an actual arm's-length sale or other arm's-length commercial transfer of a useful end result, whether or not the subject matter at issue is accessible to or otherwise known to the public, except that the subject matter for which commercial marketing or use is subject to a premarketing regulatory review period during which the safety or efficacy of the subject matter is established, including any period specified in section 156(g), shall be deemed 'commercially used' and in 'commercial use' during such regulatory review period;

''(2) in the case of activities performed by a nonprofit research laboratory, or nonprofit entity such as a university, research center, or hospital, a use for which the public is the intended beneficiary shall be considered to be a use described in paragraph (1), except that the use—

''(A) may be asserted as a defense under this section only for continued use by and in the laboratory or nonprofit entity; and

''(B) may not be asserted as a defense with respect to any subsequent commercialization or use outside such laboratory or nonprofit entity;

''(3) the term 'method' means a method of doing or conducting business; and

''(4) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

''(b) DEFENSE TO INFRINGEMENT.—

''(1) IN GENERAL.—It shall be a defense to an action for infringement under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims for a method in the patent being asserted against a person, if such person had, acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of such patent, and commercially used the subject matter before the effective filing date of such patent.

''(2) EXHAUSTION OF RIGHT.—The sale or other disposition of a useful end product produced by a patented method, by a person entitled to assert a defense under this section with respect to that useful end result shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

''(3) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

''(A) PATENT.—A person may not assert the defense under this section unless the invention for which the defense is asserted is for a method.

''(B) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

''(C) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the specific subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

''(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense by clear and convincing evidence.

''(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under this section with respect to actions taken after the date of such abandonment.

''(6) PERSONAL DEFENSE.—The defense under this section may be asserted only by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person except as an ancillary and subordinate part of a good faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

''(7) LIMITATION ON SITES.—A defense under this section, when acquired as part of a good faith assignment or transfer of an entire enterprise or line of business to which the defense relates, may only be asserted for uses at sites where the subject matter that would otherwise infringe one or more of the claims is in use before the later of the effective filing date of the patent or the date of the assignment or transfer of such enterprise or line of business.

''(8) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney fees under section 285 of this title.

''(9) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is raised or established under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

''273. Defense to infringement based on earlier inventor.''.

SEC. 4303. EFFECTIVE DATE AND APPLICABILITY.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

Subtitle D—Patent Term Guarantee

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the ''Patent Term Guarantee Act of 1999''.

SEC. 4402. PATENT TERM GUARANTEE AUTHORITY.

(a) ADJUSTMENT OF PATENT TERM.—Section 154(b) of title 35, United States Code, is amended to read as follows:

''(b) ADJUSTMENT OF PATENT TERM.—

''(1) PATENT TERM GUARANTEES.—

''(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

''(i) provide at least 1 of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after—

''(I) the date on which an application was filed under section 111(a) of this title; or

''(II) the date on which an international application fulfilled the requirements of section 371 of this title;

''(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

''(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

''(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied,

the term of the patent shall be extended one day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

''(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including—

''(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

''(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

''(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C),

the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

''(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

''(i) a proceeding under section 135(a);

''(ii) the imposition of an order under section 181; or

''(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability,

the term of the patent shall be extended one day for each day of the pendency of the proceeding, order, or review, as the case may be.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

''(B) DISCLAIMED TERM.—No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

''(C) REDUCTION OF PERIOD OF ADJUSTMENT.—

''(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

''(ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

''(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

''(3) PROCEDURES FOR PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) The Director shall prescribe regulations establishing procedures for the application for and determination of patent term adjustments under this subsection.

''(B) Under the procedures established under subparagraph (A), the Director shall—

''(i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and

''(ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

''(C) The Director shall reinstate all or part of the cumulative period of time of an adjustment under paragraph (2)(C) if the applicant, prior to the issuance of the patent, makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period, but in no case shall more than 3 additional months for each such response beyond the original 3-month period be reinstated.

''(D) The Director shall proceed to grant the patent after completion of the Director's determination of a patent term adjustment under the procedures established under this subsection, notwithstanding any appeal taken by the applicant of such determination.

''(4) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

''(B) The determination of a patent term adjustment under this subsection shall not be subject to appeal or challenge by a third party prior to the grant of the patent.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 282 of title 35, United States Code, is amended in the fourth paragraph by striking ''156 of this title'' and inserting ''154(b) or 156 of this title''.

(2) Section 1295(a)(4)(C) of title 28, United States Code, is amended by striking ''145 or 146'' and inserting ''145, 146, or 154(b)''.

SEC. 4403. CONTINUED EXAMINATION OF PATENT APPLICATIONS.

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking ''Whenever'' and inserting ''(a) Whenever''; and

(2) by adding at the end the following:

''(b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Director may establish appropriate fees for such continued examination and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under section 41(h)(1) of this title.''.

SEC. 4404. TECHNICAL CLARIFICATION.

Section 156(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting '', which shall include any patent term adjustment granted under section 154(b),'' after ''the original expiration date of the patent''.

SEC. 4405. EFFECTIVE DATE.

(a) AMENDMENTS MADE BY SECTIONS 4402 AND 4404.—The amendments made by sections 4402 and 4404 shall take effect on the date that is 6 months after the date of enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after the date that is 6 months after the date of enactment of this Act.

(b) AMENDMENTS MADE BY SECTION 4403.—The amendments made by section 4403—

(1) shall take effect on the date that is 6 months after the date of enactment of this Act, and shall apply to all applications filed under section 111(a) of title 35, United States Code, on or after June 8, 1995, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after June 8, 1995; and

(2) do not apply to applications for design patents under chapter 16 of title 35, United States Code.

Subtitle E—Domestic Publication of Patent Applications Published Abroad

SEC. 4501. SHORT TITLE.

This subtitle may be cited as the ''Domestic Publication of Foreign Filed Patent Applications Act of 1999''.

SEC. 4502. PUBLICATION.

(a) PUBLICATION.—Section 122 of title 35, United States Code, is amended to read as follows:

''§ 122. Confidential status of applications; publication of patent applications

''(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

''(b) PUBLICATION.—

''(1) IN GENERAL.—(A) Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

''(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

''(C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

''(2) EXCEPTIONS.—(A) An application shall not be published if that application is—

''(i) no longer pending;

''(ii) subject to a secrecy order under section 181 of this title;

''(iii) a provisional application filed under section 111(b) of this title; or

''(iv) an application for a design patent filed under chapter 16 of this title.

''(B)(i) If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

''(ii) An applicant may rescind a request made under clause (i) at any time.

''(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

''(iv) If an applicant rescinds a request made under clause (i) or notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).

''(v) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

''(c) PROTEST AND PRE-ISSUANCE OPPOSITION.—The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

''(d) NATIONAL SECURITY.—No application for patent shall be published under subsection (b)(1) if the publication or disclosure of such invention would be detrimental to the national security. The Director shall establish appropriate procedures to ensure that such applications are promptly identified and the secrecy of such inventions is maintained in accordance with chapter 17 of this title.''.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a 3-year study of the applicants who file only in the United States on or after the effective date of this subtitle and shall provide the results of such study to the Judiciary Committees of the House of Representatives and the Senate.

(2) CONTENTS.—The study conducted under paragraph (1) shall—

(A) consider the number of such applicants in relation to the number of applicants who file in the United States and outside of the United States;

(B) examine how many domestic-only filers request at the time of filing not to be published;

(C) examine how many such filers rescind that request or later choose to file abroad;

(D) examine the status of the entity seeking an application and any correlation that may exist between such status and the publication of patent applications; and

(E) examine the abandonment/issuance ratios and length of application pendency before patent issuance or abandonment for published versus unpublished applications.

SEC. 4503. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

''(b)(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.

''(2) The Director may consider the failure of the applicant to file a timely claim for priority

as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.

''(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.''.

(b) IN THE UNITED STATES.—

(1) IN GENERAL.—Section 120 of title 35, United States Code, is amended by adding at the end the following: ''No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.''.

(2) RIGHT OF PRIORITY.—Section 119(e)(1) of title 35, United States Code, is amended by adding at the end the following: ''No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.''.

SEC. 4504. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

*(1) in the section caption by inserting ''**; provisional rights**'' after ''**patent**''; and*

(2) by adding at the end the following new subsection:

''(d) PROVISIONAL RIGHTS.—

''(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent under section 122(b), or in the case of an international application filed under the treaty defined in section 351(a) designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

''(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

''(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

''(B) had actual notice of the published patent application and, in a case in which the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, had a translation of the international application into the English language.

''(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

''(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

''(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

''(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of an international application designating the United States shall commence on the date on which the Patent and Trademark Office receives a copy of the publication under the treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, on the date on which the Patent and Trademark Office receives a translation of the international application in the English language.

''(B) COPIES.—The Director may require the applicant to provide a copy of the international application and a translation thereof.''.

SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

''(e) The invention was described in—

''(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

''(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or''.

SEC. 4506. COST RECOVERY FOR PUBLICATION.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall recover the cost of early publication required by the amendment made by section 4502 by charging a separate publication fee after notice of allowance is given under section 151 of title 35, United States Code.

SEC. 4507. CONFORMING AMENDMENTS.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting ''and published applications for patents'' after ''Patents''.

(2) Section 12 is amended—

*(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and*

(B) by inserting ''and published applications for patents'' after ''patents''.

(3) Section 13 is amended—

*(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and*

(B) by inserting ''and published applications for patents'' after ''patents''.

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1 are each amended by inserting ''and applications'' after ''patents''.

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting ''; publication of patent applications'' after ''applications''.

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting ''; provisional rights'' after ''patent''.

(7) Section 181 is amended—

(A) in the first undesignated paragraph—

(i) by inserting ''by the publication of an application or'' after ''disclosure''; and

(ii) by inserting ''the publication of the application or'' after ''withhold'';

(B) in the second undesignated paragraph by inserting ''by the publication of an application or'' after ''disclosure of an invention'';

(C) in the third undesignated paragraph—

(i) by inserting ''by the publication of the application or'' after ''disclosure of the invention''; and

(ii) by inserting ''the publication of the application or'' after ''withhold''; and

(D) in the fourth undesignated paragraph by inserting ''the publication of an application or'' after ''and'' in the first sentence.

(8) Section 252 is amended in the first undesignated paragraph by inserting ''substantially'' before ''identical'' each place it appears.

(9) Section 284 is amended by adding at the end of the second undesignated paragraph the following: ''Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.''.

(10) Section 374 is amended to read as follows:

''§ 374. Publication of international application

''The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.''.

(11) Section 135(b) is amended—

(A) by inserting ''(1)'' after ''(b)''; and

(B) by adding at the end the following:

''(2) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) of this title may be made in an application filed after the application is published only if the claim is made before 1 year after the date on which the application is published.''.

SEC. 4508. EFFECTIVE DATE.

Sections 4502 through 4507, and the amendments made by such sections, shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after that date. The amendments made by sections 4504 and 4505 shall apply to any such application voluntarily published by the applicant under procedures established under this subtitle that is pending on the date that is 1 year after the date of enactment of this Act. The amendment made by section 4504 shall also apply to international applications designating the United States that are filed on or after the date that is 1 year after the date of enactment of this Act.

Subtitle F—Optional Inter Partes Reexamination Procedure

SEC. 4601. SHORT TITLE.

This subtitle may be cited as the ''Optional Inter Partes Reexamination Procedure Act of 1999''.

SEC. 4602. EX PARTE REEXAMINATION OF PATENTS.

*The chapter heading for chapter 30 of title 35, United States Code, is amended by inserting ''**EX PARTE**'' before ''**REEXAMINATION OF PATENTS**''.*

SEC. 4603. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

''(e) The term 'third-party requester' means a person requesting ex parte reexamination under section 302 or inter partes reexamination under section 311 who is not the patent owner.''.

SEC. 4604. OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.

(a) IN GENERAL.—Part 3 of title 35, United States Code, is amended by adding after chapter 30 the following new chapter:

''CHAPTER 31—OPTIONAL INTER PARTES REEXAMINATION PROCEDURES

''Sec.
''311. Request for inter partes reexamination.
''312. Determination of issue by Director.
''313. Inter partes reexamination order by Director.
''314. Conduct of inter partes reexamination proceedings.
''315. Appeal.
''316. Certificate of patentability, unpatentability, and claim cancellation.
''317. Inter partes reexamination prohibited.
''318. Stay of litigation.

''§ 311. Request for inter partes reexamination

''(a) IN GENERAL.—Any person at any time may file a request for inter partes reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301.

''(b) REQUIREMENTS.—The request shall—

''(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of an inter partes reexamination fee established by the Director under section 41; and

''(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested.

''(c) COPY.—Unless the requesting person is the owner of the patent, the Director promptly shall send a copy of the request to the owner of record of the patent.

''§ 312. Determination of issue by Director

''(a) REEXAMINATION.—Not later than 3 months after the filing of a request for inter partes reexamination under section 311, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director's initiative, and at any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications.

''(b) RECORD.—A record of the Director's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

''(c) FINAL DECISION.—A determination by the Director under subsection (a) shall be final and non-appealable. Upon a determination that no substantial new question of patentability has been raised, the Director may refund a portion of the inter partes reexamination fee required under section 311.

''§ 313. Inter partes reexamination order by Director

''If, in a determination made under section 312(a), the Director finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for inter partes reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent and Trademark Office on the merits of the inter partes reexamination conducted in accordance with section 314.

''§ 314. Conduct of inter partes reexamination proceedings

''(a) IN GENERAL.—Except as otherwise provided in this section, reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133. In any inter partes reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

''(b) RESPONSE.—(1) This subsection shall apply to any inter partes reexamination proceeding in which the order for inter partes reexamination is based upon a request by a third-party requester.

''(2) With the exception of the inter partes reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party. In addition, the third-party requester shall receive a copy of any communication sent by the Office to the patent owner concerning the patent subject to the inter partes reexamination proceeding.

''(3) Each time that the patent owner files a response to an action on the merits from the Patent and Trademark Office, the third-party requester shall have one opportunity to file written comments addressing issues raised by the action of the Office or the patent owner's response thereto, if those written comments are received by the Office within 30 days after the date of service of the patent owner's response.

''(c) SPECIAL DISPATCH.—Unless otherwise provided by the Director for good cause, all inter partes reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.

''§ 315. Appeal

''(a) PATENT OWNER.—The patent owner involved in an inter partes reexamination proceeding under this chapter—

''(1) may appeal under the provisions of section 134 and may appeal under the provisions of sections 141 through 144, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; and

''(2) may be a party to any appeal taken by a third-party requester under subsection (b).

''(b) THIRD-PARTY REQUESTER.—A third-party requester may—

''(1) appeal under the provisions of section 134 with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

''(2) be a party to any appeal taken by the patent owner under the provisions of section 134, subject to subsection (c).

''(c) CIVIL ACTION.—A third-party requester whose request for an inter partes reexamination results in an order under section 313 is estopped from asserting at a later time, in any civil action arising in whole or in part under section 1338 of title 28, the invalidity of any claim finally determined to be valid and patentable on any ground which the third-party requester raised or could have raised during the inter partes reexamination proceedings. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

''§ 316. Certificate of patentability, unpatentability, and claim cancellation

''(a) IN GENERAL.—In an inter partes reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable.

''(b) AMENDED OR NEW CLAIM.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following an inter partes reexamination proceeding shall have the same effect as that specified in section 252 of this title for reissued patents on the right of any person who made, purchased, or used within the United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation therefor, prior to issuance of a certificate under the provisions of subsection (a) of this section.

''§ 317. Inter partes reexamination prohibited

''(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for inter partes reexamination of a patent has been issued under section 313, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for inter partes reexamination of the patent until an inter partes reexamination certificate is issued and published under section 316, unless authorized by the Director.

''(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit or if a final decision in an inter partes reexamination proceeding instituted by a third-party requester is favorable to the patentability of any original or proposed amended or new claim of the patent, then neither that party nor its privies may thereafter request an inter partes reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or inter partes reexamination proceeding, and an inter partes reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

''§ 318. Stay of litigation

''Once an order for inter partes reexamination of a patent has been issued under section 313, the patent owner may obtain a stay of any pending litigation which involves an issue of patentability of any claims of the patent which are the subject of the inter partes reexamination order, unless the court before which such litigation is pending determines that a stay would not serve the interests of justice.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part III of title 25, United States Code, is amended by striking the item relating to chapter 30 and inserting the following:

''30. Prior Art Citations to Office and Ex Parte Reexamination of Patents **301**
''31. Optional Inter Partes Reexamination of Patents ..... **311''.**

SEC. 4605. CONFORMING AMENDMENTS.

(a) PATENT FEES; PATENT SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

''(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.''.

(b) APPEAL TO THE BOARD OF PATENTS APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

''(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the administrative patent judge to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

''(b) PATENT OWNER.—A patent owner in any reexamination proceeding may appeal from the final rejection of any claim by the administrative patent judge to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

''(c) THIRD-PARTY.—A third-party requester in an inter partes proceeding may appeal to the Board of Patent Appeals and Interferences from the final decision of the administrative patent judge favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal. The third-party requester may not appeal the decision of the Board of Patent Appeals and Interferences.''.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding the following after the second sentence: ''A patent owner in any reexamination proceeding dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 may appeal the decision only to the United States Court of Appeals for the Federal Circuit.''.

(d) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.''.

(e) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting ''(a)'' after ''section 134''.

SEC. 4606. REPORT TO CONGRESS.

Not later than 5 years after the date of the enactment of this Act, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall submit to the Congress a report evaluating whether the inter partes reexamination proceedings established under the amendments made by this subtitle are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for changes to the amendments made by this subtitle to remove such inequity.

SEC. 4607. ESTOPPEL EFFECT OF REEXAMINATION.

Any party who requests an inter partes reexamination under section 311 of title 35, United States Code, is estopped from challenging at a later time, in any civil action, any fact determined during the process of such reexamination, except with respect to a fact determination later proved to be erroneous based on information unavailable at the time of the inter partes reexamination decision. If this section is held to be unenforceable, the enforceability of the remainder of this subtitle or of this title shall not be denied as a result.

SEC. 4608. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act and shall apply to any patent that issues from an original application filed in the United States on or after that date.

(b) SECTION 4605(a).—The amendments made by section 4605(a) shall take effect on the date that is 1 year after the date of enactment of this Act.

Subtitle G—Patent and Trademark Office

SEC. 4701. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Efficiency Act''.

CHAPTER 1—UNITED STATES PATENT AND TRADEMARK OFFICE

SEC. 4711. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE.

Section 1 of title 35, United States Code, is amended to read as follows:

"§ 1. Establishment

''(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce. In carrying out its functions, the United States Patent and Trademark Office shall be subject to the policy direction of the Secretary of Commerce, but otherwise shall retain responsibility for decisions regarding the management and administration of its operations and shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions in accordance with this title and applicable provisions of law. Those operations designed to grant and issue patents and those operations which are designed to facilitate the registration of trademarks shall be treated as separate operating units within the Office.

''(b) OFFICES.—The United States Patent and Trademark Office shall maintain its principal office in the metropolitan Washington, DC, area, for the service of process and papers and for the purpose of carrying out its functions. The United States Patent and Trademark Office shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located, except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Office may establish satellite offices in such other places in the United States as it considers necessary and appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the United States Patent and Trademark Office shall also be referred to as the 'Office' and the 'Patent and Trademark Office'.''.

SEC. 4712. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

"§ 2. Powers and duties

''(a) IN GENERAL.—The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce—

''(1) shall be responsible for the granting and issuing of patents and the registration of trademarks; and

''(2) shall be responsible for disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall adopt and use a seal of the Office, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(2) may establish regulations, not inconsistent with law, which—

''(A) shall govern the conduct of proceedings in the Office;

''(B) shall be made in accordance with section 553 of title 5;

''(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

''(D) may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office;

''(E) shall recognize the public interest in continuing to safeguard broad access to the United States patent system through the reduced fee structure for small entities under section 41(h)(1) of this title; and

''(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

''(3) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(4)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(5) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(6) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, instrumentality, patent and trademark office, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign patent and trademark office or international organization to perform functions on its behalf;

''(7) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office;

''(8) shall advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

''(9) shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries;

''(10) shall provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

''(11) may conduct programs, studies, or exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically and throughout the world;

''(12)(A) shall advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) may conduct programs and studies described in subparagraph (A); and

''(13)(A) in coordination with the Department of State, may conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed $100,000 in any year to the Department of

State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters.

''(c) CLARIFICATION OF SPECIFIC POWERS.—(1) The special payments under subsection (b)(13)(B) shall be in addition to any other payments or contributions to international organizations described in subsection (b)(13)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

''(2) Nothing in subsection (b) shall derogate from the duties of the Secretary of State or from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

''(3) Nothing in subsection (b) shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

''(4) In exercising the Director's powers under paragraphs (3) and (4)(A) of subsection (b), the Director shall consult with the Administrator of General Services.

''(5) In exercising the Director's powers and duties under this section, the Director shall consult with the Register of Copyrights on all copyright and related matters.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Office.''.

SEC. 4713. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) UNDER SECRETARY AND DIRECTOR.—

''(1) IN GENERAL.—The powers and duties of the United States Patent and Trademark Office shall be vested in an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this title referred to as the 'Director'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who has a professional background and experience in patent or trademark law.

''(2) DUTIES.—

''(A) IN GENERAL.—The Director shall be responsible for providing policy direction and management supervision for the Office and for the issuance of patents and the registration of trademarks. The Director shall perform these duties in a fair, impartial, and equitable manner.

''(B) CONSULTING WITH THE PUBLIC ADVISORY COMMITTEES.—The Director shall consult with the Patent Public Advisory Committee established in section 5 on a regular basis on matters relating to the patent operations of the Office, shall consult with the Trademark Public Advisory Committee established in section 5 on a regular basis on matters relating to the trademark operations of the Office, and shall consult with the respective Public Advisory Committee before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations which are subject to the requirement to provide notice and opportunity for public comment under section 553 of title 5, as the case may be.

''(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(4) REMOVAL.—The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY UNDER SECRETARY AND DEPUTY DIRECTOR.—The Secretary of Commerce, upon nomination by the Director, shall appoint a Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director. The Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law.

''(2) COMMISSIONERS.—

''(A) APPOINTMENT AND DUTIES.—The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5. The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law and serve for a term of 5 years. The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law and serve for a term of 5 years. The Commissioner for Patents and the Commissioner for Trademarks shall serve as the chief operating officers for the operations of the Office relating to patents and trademarks, respectively, and shall be responsible for the management and direction of all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively. The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner as set forth in the performance agreement in subparagraph (B) is satisfactory.

''(B) SALARY AND PERFORMANCE AGREEMENT.—The Commissioners shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. The compensation of the Commissioners shall be considered, for purposes of section 207(c)(2)(A) of title 18, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of title 18. In addition, the Commissioners may receive a bonus in an amount of up to, but not in excess of, 50 percent of the Commissioners' annual rate of basic pay, based upon an evaluation by the Secretary of Commerce, acting through the Director, of the Commissioners' performance as defined in an annual performance agreement between the Commissioners and the Secretary. The annual performance agreements shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Commissioners and the Secretary. Payment of a bonus under this subparagraph may be made to the Commissioners only to the extent that such payment does not cause the Commissioners' total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the Vice President under section 104 of title 3.

''(C) REMOVAL.—The Commissioners may be removed from office by the Secretary for misconduct or nonsatisfactory performance under the performance agreement described in subparagraph (B), without regard to the provisions of title 5. The Secretary shall provide notification of any such removal to both Houses of Congress.

''(3) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

''(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

''(B) define the title, authority, and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.

''(4) TRAINING OF EXAMINERS.—The Office shall submit to the Congress a proposal to provide an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.

''(5) NATIONAL SECURITY POSITIONS.—The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances, in order to maintain the secrecy of certain inventions, as described in section 181, and to prevent disclosure of sensitive and strategic information in the interest of national security.

''(c) CONTINUED APPLICABILITY OF TITLE 5.—Officers and employees of the Office shall be subject to the provisions of title 5 relating to Federal employees.

''(d) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Efficiency Act, with respect to such Office (as then in effect).

''(e) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Efficiency Act, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Efficiency Act, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office, as necessary to carry out the purposes of this Act, if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Director.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(f) TRANSITION PROVISIONS.—

''(1) INTERIM APPOINTMENT OF DIRECTOR.—On or after the effective date of the Patent and Trademark Office Efficiency Act, the President shall appoint an individual to serve as the Director until the date on which a Director qualifies under subsection (a). The President shall not make more than one such appointment under this subsection.

''(2) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Patents until the date on which a Commissioner for Patents is appointed under subsection (b).

''(B) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Trademarks until the date on which

a Commissioner for Trademarks is appointed under subsection (b).''.

SEC. 4714. PUBLIC ADVISORY COMMITTEES.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§5. Patent and Trademark Office Public Advisory Committees

''(a) ESTABLISHMENT OF PUBLIC ADVISORY COMMITTEES.—

''(1) APPOINTMENT.—The United States Patent and Trademark Office shall have a Patent Public Advisory Committee and a Trademark Public Advisory Committee, each of which shall have nine voting members who shall be appointed by the Secretary of Commerce and serve at the pleasure of the Secretary of Commerce. Members of each Public Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed, three shall be appointed for a term of 1 year, and three shall be appointed for a term of 2 years. In making appointments to each Committee, the Secretary of Commerce shall consider the risk of loss of competitive advantage in international commerce or other harm to United States companies as a result of such appointments.

''(2) CHAIR.—The Secretary shall designate a chair of each Advisory Committee, whose term as chair shall be for 3 years.

''(3) TIMING OF APPOINTMENTS.—Initial appointments to each Advisory Committee shall be made within 3 months after the effective date of the Patent and Trademark Office Efficiency Act. Vacancies shall be filled within 3 months after they occur.

''(b) BASIS FOR APPOINTMENTS.—Members of each Advisory Committee—

''(1) shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee;

''(2) shall include members who represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants, but in no case shall members who represent small entity patent applicants, including small business concerns, independent inventors, and nonprofit organizations, constitute less than 25 percent of the members of the Patent Public Advisory Committee, and such members shall include at least one independent inventor; and

''(3) shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.

In addition to the voting members, each Advisory Committee shall include a representative of each labor organization recognized by the United States Patent and Trademark Office. Such representatives shall be nonvoting members of the Advisory Committee to which they are appointed.

''(c) MEETINGS.—Each Advisory Committee shall meet at the call of the chair to consider an agenda set by the chair.

''(d) DUTIES.—Each Advisory Committee shall—

''(1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to Trademarks, in the case of the Trademark Public Advisory Committee, and advise the Director on these matters;

''(2) within 60 days after the end of each fiscal year—

''(A) prepare an annual report on the matters referred to in paragraph (1);

''(B) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

''(C) publish the report in the Official Gazette of the United States Patent and Trademark Office.

''(e) COMPENSATION.—Each member of each Advisory Committee shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of that Advisory Committee or otherwise engaged in the business of that Advisory Committee, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5. While away from such member's home or regular place of business such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

''(f) ACCESS TO INFORMATION.—Members of each Advisory Committee shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.

''(g) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of each Advisory Committee shall be special Government employees within the meaning of section 202 of title 18.

''(h) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to each Advisory Committee.

''(i) OPEN MEETINGS.—The meetings of each Advisory Committee shall be open to the public, except that each Advisory Committee may by majority vote meet in executive session when considering personnel or other confidential information.''.

SEC. 4715. CONFORMING AMENDMENTS.

(a) DUTIES.—Chapter 1 of title 35, United States Code, is amended by striking section 6.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, and the item relating to such section in the table of sections for chapter 3 of title 35, United States Code, are repealed.

(c) SUSPENSION OR EXCLUSION FROM PRACTICE.—Section 32 of title 35, United States Code, is amended by striking ''31'' and inserting ''2(b)(2)(D)''.

SEC. 4716. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Director, the Commissioner for Patents, the Commissioner for Trademarks, and administrative trademark judges who are appointed by the Director.''.

SEC. 4717. BOARD OF PATENT APPEALS AND INTERFERENCES.

Chapter 1 of title 35, United States Code, is amended—

(1) by striking section 7 and redesignating sections 8 through 14 as sections 7 through 13, respectively; and

(2) by inserting after section 5 the following:

''§6. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 4718. ANNUAL REPORT OF DIRECTOR.

Section 13 of title 35, United States Code, as redesignated by section 4717 of this subtitle, is amended to read as follows:

''§13. Annual report to Congress

''The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, the nature of training provided to examiners, the evaluation of the Commissioner of Patents and the Commissioner of Trademarks by the Secretary of Commerce, the compensation of the Commissioners, and other information relating to the Office.''.

SEC. 4719. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 4720. PAY OF DIRECTOR AND DEPUTY DIRECTOR.

(a) PAY OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by striking:

''Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.''.

and inserting:

''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''.

(b) PAY OF DEPUTY DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.''.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 4731. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 4 months after the date of enactment of this Act.

SEC. 4732. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The item relating to part I in the table of parts for chapter 35, United States Code, is amended to read as follows:

''I. United States Patent and Trademark Office ..... 1''.

(2) The heading for part I of title 35, United States Code, is amended to read as follows:

''PART I—UNITED STATES PATENT AND TRADEMARK OFFICE''.

(3) The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1''.

(4) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
'' 1. Establishment.
'' 2. Powers and duties.
'' 3. Officers and employees.

'' 4. Restrictions on officers and employees as to interest in patents.
'' 5. Patent and Trademark Office Public Advisory Committees.
'' 6. Board of Patent Appeals and Interferences.
'' 7. Library.
'' 8. Classification of patents.
'' 9. Certified copies of records.
''10. Publications.
''11. Exchange of copies of patents and applications with foreign countries.
''12. Copies of patents and applications for public libraries.
''13. Annual report to Congress.''.

(5) Section 41(h) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(6) Section 155 of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(7) Section 155A(c) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(8) Section 302 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' and inserting ''Director''.

(9)(A) Section 303 of title 35, United States Code, is amended—

*(i) in the section heading by striking ''**Commissioner**'' and inserting ''**Director**''; and*

(ii) by striking ''Commissioner's'' and inserting ''Director's''.

(B) The item relating to section 303 in the table of sections for chapter 30 of title 35, United States Code, is amended by striking ''Commissioner'' and inserting ''Director''.

(10)(A) Except as provided in subparagraph (B), title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(B) Chapter 17 of title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Commissioner of Patents''.

(11) Section 157(d) of title 35, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Director''.

(12) Section 202(a) of title 35, United States Code, is amended—

(A) by striking ''iv)'' and inserting ''(iv)''; and

(B) by striking the second period after ''Department of Energy'' at the end of the first sentence.

(b) OTHER PROVISIONS OF LAW.—

(1)(A) Section 45 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1127), is amended by striking ''The term 'Commissioner'' means the Commissioner of Patents and Trademarks.' and inserting ''The term 'Director' means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''.

(B) The Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1051 and following), except for section 17, as amended by 4716 of this subtitle, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(C) Sections 8(e) and 9(b) of the Trademark Act of 1946 are each amended by striking ''Commissioner'' and inserting ''Director''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended to read as follows:

''(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;''.

(4) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)) is amended to read as follows:

''(B) the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; and''.

(6) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended—

(A) by striking ''(d) Patent and Trademark Office;'' and inserting:

''(4) United States Patent and Trademark Office''; and

(B) by redesignating subsections (a), (b), (c), (e), (f), and (g) as paragraphs (1), (2), (3), (5), (6), and (7), respectively and indenting the paragraphs as so redesignated 2 ems to the right.

(7) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended—

(A) by striking ''Patent Office of the United States'' and inserting ''United States Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(8) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(9) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(10) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(11) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''Patent and Trademark Office of the Department of Commerce'' and inserting ''United States Patent and Trademark Office''.

(12) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office'' and by striking ''Commissioner'' and inserting ''Director''.

(13) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(14) Section 1295(a)(4) of title 28, United States Code, is amended—

(A) in subparagraph (A) by inserting ''United States'' before ''Patent and Trademark''; and

(B) in subparagraph (B) by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(15) Chapter 115 of title 28, United States Code, is amended—

(A) in the item relating to section 1744 in the table of sections by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office'';

(B) in section 1744—

(i) by striking ''Patent Office'' each place it appears in the text and section heading and inserting ''United States Patent and Trademark Office''; and

(ii) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''; and

(C) by striking ''Commissioner'' and inserting ''Director''.

(16) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(17) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(18) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181) is amended in subsections c. and d. by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(19) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(20) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended—

(A) in subsection (c) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')''; and

(B) by striking ''Commissioner'' each subsequent place it appears and inserting ''Director''.

(21) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(22) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(23) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(24) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office,''.

(25) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(26) Section 10(i) of the Trading with the enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 4741. REFERENCES.

(a) IN GENERAL.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this subtitle—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

(b) SPECIFIC REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office;

(2) to the Assistant Commissioner for Patents is deemed to refer to the Commissioner for Patents; or

(3) to the Assistant Commissioner for Trademarks is deemed to refer to the Commissioner for Trademarks.

SEC. 4742. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this subtitle.

SEC. 4743. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this subtitle, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this subtitle; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This subtitle shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office transferred by this subtitle, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subtitle had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

(c) SUITS.—This subtitle shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subtitle had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this subtitle, shall abate by reason of the enactment of this subtitle.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this subtitle such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this subtitle, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this subtitle.

SEC. 4744. TRANSFER OF ASSETS.

Except as otherwise provided in this subtitle, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this subtitle shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 4745. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this subtitle, an official to whom functions are transferred under this subtitle (including the head of any office to which functions are transferred under this subtitle) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this subtitle shall relieve the official to whom a function is transferred under this subtitle of responsibility for the administration of the function.

SEC. 4746. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this subtitle.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle. The Director shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 4747. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this subtitle, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 4748. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this subtitle shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in Public Law 105–277.

SEC. 4749. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

Subtitle H—Miscellaneous Patent Provisions

SEC. 4801. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

''(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). Subject to section 119(e)(3) of this title, if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival after such 12-month period.''.

(b) TECHNICAL AMENDMENT RELATING TO WEEKENDS AND HOLIDAYS.—Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

''(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.''.

(c) ELIMINATION OF COPENDENCY REQUIREMENT.—Section 119(e)(2) of title 35, United States Code, is amended by striking ''and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to any provisional application filed on or after June 8, 1995, except that the amendments made by subsections (b) and (c) shall have no effect with respect to any patent which is the subject of litigation in an action commenced before such date of enactment.

SEC. 4802. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended as follows:

(1) In subsection (a), insert ''or in a WTO member country,'' after ''or citizens of the United States,''.

(2) At the end of section 119 add the following new subsections:

''(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

''(g) As used in this section—

''(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

''(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.''.

SEC. 4803. CERTAIN LIMITATIONS ON DAMAGES FOR PATENT INFRINGEMENT NOT APPLICABLE.

Section 287(c)(4) of title 35, United States Code, is amended by striking ''before the date of enactment of this subsection'' and inserting ''based on an application the earliest effective filing date of which is prior to September 30, 1996''.

SEC. 4804. ELECTRONIC FILING AND PUBLICATIONS.

(a) PRINTING OF PAPERS FILED.—Section 22 of title 35, United States Code, is amended by striking ''printed or typewritten'' and inserting ''printed, typewritten, or on an electronic medium''.

(b) PUBLICATIONS.—Section 11(a) of title 35, United States Code, is amended by amending the matter preceding paragraph 1 to read as follows:

''(a) The Director may publish in printed, typewritten, or electronic form, the following:''.

(c) COPIES OF PATENTS FOR PUBLIC LIBRARIES.—Section 13 of title 35, United States Code,

is amended by striking ''printed copies of specifications and drawings of patents'' and inserting ''copies of specifications and drawings of patents in printed or electronic form''.

(d) MAINTENANCE OF COLLECTIONS.—

(1) ELECTRONIC COLLECTIONS.—Section 41(i)(1) of title 35, United States Code, is amended by striking ''paper or microform'' and inserting ''paper, microform, or electronic''.

(2) CONTINUATION OF MAINTENANCE.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall not, pursuant to the amendment made by paragraph (1), cease to maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations, except pursuant to notice and opportunity for public comment and except that the Director shall first submit a report to the Committees on the Judiciary of the Senate and the House of Representatives detailing such plan, including a description of the mechanisms in place to ensure the integrity of such collections and the data contained therein, as well as to ensure prompt public access to the most current available information, and certifying that the implementation of such plan will not negatively impact the public.

SEC. 4805. STUDY AND REPORT ON BIOLOGICAL DEPOSITS IN SUPPORT OF BIOTECHNOLOGY PATENTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, shall conduct a study and submit a report to Congress on the potential risks to the United States biotechnology industry relating to biological deposits in support of biotechnology patents.

(b) CONTENTS.—The study conducted under this section shall include—

(1) an examination of the risk of export and the risk of transfers to third parties of biological deposits, and the risks posed by the change to 18-month publication requirements made by this subtitle;

(2) an analysis of comparative legal and regulatory regimes; and

(3) any related recommendations.

(c) CONSIDERATION OF REPORT.—In drafting regulations affecting biological deposits (including any modification of title 37, Code of Federal Regulations, section 1.801 et seq.), the United States Patent and Trademark Office shall consider the recommendations of the study conducted under this section.

SEC. 4806. PRIOR INVENTION.

Section 102(g) of title 35, United States Code, is amended to read as follows:

''(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.''.

SEC. 4807. PRIOR ART EXCLUSION FOR CERTAIN COMMONLY ASSIGNED PATENTS.

(a) PRIOR ART EXCLUSION.—Section 103(c) of title 35, United States Code, is amended by striking ''subsection (f) or (g)'' and inserting ''one or more of subsections (e), (f), and (g)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any application for patent filed on or after the date of enactment of this Act.

SEC. 4808. EXCHANGE OF COPIES OF PATENTS WITH FOREIGN COUNTRIES.

Section 12 of title 35, United States Code, is amended by adding at the end the following: ''The Director shall not enter into an agreement to provide such copies of specifications and drawings of United States patents and applications to a foreign country, other than a NAFTA country or a WTO member country, without the express authorization of the Secretary of Commerce. For purposes of this section, the terms 'NAFTA country' and 'WTO member country' have the meanings given those terms in section 104(b).''.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. COMMISSION ON ONLINE CHILD PROTECTION.

(a) REFERENCES.—Wherever in this section an amendment is expressed in terms of an amendment to any provision, the reference shall be considered to be made to such provision of section 1405 of the Child Online Protection Act (47 U.S.C. 231 note).

(b) MEMBERSHIP.—Subsection (b) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) INDUSTRY MEMBERS.—The Commission shall include 16 members who shall consist of representatives of—

''(A) providers of Internet filtering or blocking services or software;

''(B) Internet access services;

''(C) labeling or ratings services;

''(D) Internet portal or search services;

''(E) domain name registration services;

''(F) academic experts; and

''(G) providers that make content available over the Internet.

Of the members of the Commission by reason of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate. Members of the Commission appointed on or before October 31, 1999, shall remain members.''; and

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

''(3) PROHIBITION OF PAY.—Members of the Commission shall not receive any pay by reason of their membership on the Commission.''.

(c) EXTENSION OF REPORTING DEADLINE.—The matter in subsection (d) that precedes paragraph (1) is amended by striking ''1 year'' and inserting ''2 years''.

(d) TERMINATION.—Subsection (f) is amended by inserting before the period at the end the following: ''or November 30, 2000, whichever occurs earlier''.

(e) FIRST MEETING AND CHAIRPERSON.—Section 1405 is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f) (as amended by the preceding provisions of this section) and (g) as subsections (l) and (m), respectively;

(3) by redesignating subsections (c) and (d) (as amended by the preceding provisions of this section) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following new subsections:

''(c) FIRST MEETING.—The Commission shall hold its first meeting not later than March 31, 2000.

''(d) CHAIRPERSON.—The chairperson of the Commission shall be elected by a vote of a majority of the members, which shall take place not later than 30 days after the first meeting of the Commission.''.

(f) RULES OF THE COMMISSION.—Section 1405 is amended by inserting after subsection (f) (as so redesignated by subsection (e)(3) of this section) the following new subsection:

''(g) RULES OF THE COMMISSION.—

''(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

''(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

''(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public to testify.

''(4) ADDITIONAL RULES.—The Commission may adopt other rules as necessary to carry out this section.''.

SEC. 5002. PRIVACY PROTECTION FOR DONORS TO PUBLIC BROADCASTING ENTITIES.

(a) AMENDMENT.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

''(12) Funds may not be distributed under this subsection to any public broadcasting entity that directly or indirectly—

''(A) rents contributor or donor names (or other personally identifiable information) to or from, or exchanges such names or information with, any Federal, State, or local candidate, political party, or political committee; or

''(B) discloses contributor or donor names, or other personally identifiable information, to any nonaffiliated third party unless—

''(i) such entity clearly and conspicuously discloses to the contributor or donor that such information may be disclosed to such third party;

''(ii) the contributor or donor is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and

''(iii) the contributor or donor is given an explanation of how the contributor or donor may exercise that nondisclosure option.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds distributed on or after 6 months after the date of enactment of this Act. 33

SEC. 5003. COMPLETION OF BIENNIAL REGULATORY REVIEW.

Within 180 days after the date of enactment of this Act, the Federal Communications Commission shall complete the first biennial review required by section 202(h) of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 111).

SEC. 5004. PUBLIC BROADCASTING ENTITIES.

(a) CIVIL REMITTANCE OF DAMAGES.—Section 1203(c)(5)(B) of title 17, United States Code, is amended to read as follows:

''(B) NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTIONS, OR PUBLIC BROADCASTING ENTITIES.—

''(i) DEFINITION.—In this subparagraph, the term 'public broadcasting entity' has the meaning given such term under section 118(g).

''(ii) IN GENERAL.—In the case of a nonprofit library, archives, educational institution, or public broadcasting entity, the court shall remit damages in any case in which the library, archives, educational institution, or public broadcasting entity sustains the burden of proving, and the court finds, that the library, archives, educational institution, or public broadcasting entity was not aware and had no reason to believe that its acts constituted a violation.''.

(b) CRIMINAL OFFENSES AND PENALTIES.—Section 1204(b) of title 17, United States Code, is amended to read as follows:

''(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTION, OR PUBLIC BROADCASTING ENTITY.—Subsection (a) shall not apply to a nonprofit library, archives, educational institution, or public broadcasting entity (as defined under section 118(g).''.

SEC. 5005. TECHNICAL AMENDMENTS RELATING TO VESSEL HULL DESIGN PROTECTION.

(a) IN GENERAL.—

(1) Section 504(a) of the Digital Millennium Copyright Act (Public Law 105–304) is amended to read as follows:

''(a) IN GENERAL.—Not later than November 1, 2003, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the

Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.''.

(2) Section 505 of the Digital Millennium Copyright Act is amended by striking ''and shall remain in effect'' and all that follows through the end of the section and inserting a period.

(3) Section 1301(b)(3) of title 17, United States Code, is amended to read as follows:

''(3) A 'vessel' is a craft—

''(A) that is designed and capable of independently steering a course on or through water through its own means of propulsion; and

''(B) that is designed and capable of carrying and transporting one or more passengers.''.

(4) Section 1313(c) of title 17, United States Code, is amended by adding at the end the following: ''Costs of the cancellation procedure under this subsection shall be borne by the nonprevailing party or parties, and the Administrator shall have the authority to assess and collect such costs.''. 33

(b) TARIFF ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and (D)'' and inserting ''(D), and (E)''; and

(ii) by adding at the end the following:

''(E) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consigner, of an article that constitutes infringement of the exclusive rights in a design protected under chapter 13 of title 17, United States Code.''; and

(B) in paragraphs (2) and (3), by striking ''or mask work'' and inserting ''mask work, or design''; and

(2) in subsection (l), by striking ''or mask work'' each place it appears and inserting ''mask work, or design''.

SEC. 5006. INFORMAL RULEMAKING OF COPYRIGHT DETERMINATION.

Section 1201(a)(1)(C) of title 17, United States Code, is amended in the first sentence by striking ''on the record''.

SEC. 5007. SERVICE OF PROCESS FOR SURETY CORPORATIONS.

Section 9306 of title 31, United States Code, is amended—

(1) in subsection (a) by striking all beginning with ''designates a person by written power of attorney'' through the end of such subsection and inserting the following: ''has a resident agent for service of process for that district. The resident agent—

''(1) may be an official of the State, the District of Columbia, the territory or possession in which the court sits who is authorized or appointed under the law of the State, District, territory or possession to receive service of process on the corporation; or

''(2) may be an individual who resides in the jurisdiction of the district court for the district in which a surety bond is to be provided and who is appointed by the corporation as provided in subsection (b)''; and

(2) in subsection (b) by striking ''The'' and inserting ''If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the''.

SEC. 5008. LOW-POWER TELEVISION.

(a) SHORT TITLE.—This section may be cited as the ''Community Broadcasters Protection Act of 1999''.

(b) FINDINGS.—Congress finds the following:

(1) Since the creation of low-power television licenses by the Federal Communications Commission, a small number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under severe license limitations compared to their full-power counterparts.

(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

(4) The passage of the Telecommunications Act of 1996 has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

(5) It is in the public interest to promote diversity in television programming such as that currently provided by low-power television stations to foreign-language communities.

(c) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

''(f) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—

''(1) CREATION OF CLASS A LICENSES.—

''(A) RULEMAKING REQUIRED.—Within 120 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

''(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

''(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

''(B) NOTICE TO AND CERTIFICATION BY LICENSEES.—Within 30 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power televisions licenses that describes the requirements for class A designation. Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

''(C) APPLICATION FOR AND AWARD OF LICENSES.—Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

''(D) RESOLUTION OF TECHNICAL PROBLEMS.—The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

''(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 C.F.R. 73.622, 73.623); and

''(ii) to permit maximization of a full power digital television applicant's service area consistent with such sections 73.622 and 73.623;

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) CHANGE APPLICATIONS.—If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

''(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—For purposes of this subsection, a station is a qualifying low-power television station if—

''(A)(i) during the 90 days preceding the date of enactment of the Community Broadcasters Protection Act of 1999—

''(I) such station broadcast a minimum of 18 hours per day;

''(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and

''(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

''(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

''(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

''(3) COMMON OWNERSHIP.—No low-power television station authorized as of the date of enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

''(4) ISSUANCE OF LICENSES FOR ADVANCED TELEVISION SERVICES TO TELEVISION TRANSLATOR STATIONS AND QUALIFYING LOW-POWER TELEVISION STATIONS.—The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period.

''(5) NO PREEMPTION OF SECTION 337.—Nothing in this subsection preempts or otherwise affects section 337 of this Act.

''(6) INTERIM QUALIFICATION.—

''(A) STATIONS OPERATING WITHIN CERTAIN BANDWIDTH.—The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz,

but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket 87–286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

''(B) CERTAIN CHANNELS OFF-LIMITS.—The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87–268). Within 18 months after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

''(7) NO INTERFERENCE REQUIREMENT.—The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

''(A) interference within—

''(i) the predicted Grade B contour (as of the date of enactment of the Community Broadcasters Protection Act of 1999, or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

''(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 C.F.R. 73.622(e) and (f)); (III) the digital television service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

''(B) interference within the protected contour of any low-power television station or low-power television translator station that—

''(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

''(ii) was authorized by construction permit prior to such date; or

''(iii) had a pending application that was submitted prior to such date;

''(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 C.F.R. 22.625(b)(1) and 90.303) for frequencies in—

''(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

''(ii) the 482–488 megahertz band in New York.

''(8) PRIORITY FOR DISPLACED LOW-POWER STATIONS.—Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.''.

And the Senate agree to the same.

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of secs. 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by sec. 104 of the House bill.

RICK BOUCHER,

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS,
HOWARD L. BERMAN,

Managers on the Part of the House.

From the Committee on the Judiciary:

ORRIN HATCH,
STROM THURMOND,
MIKE DEWINE,
PATRICK LEAHY,
HERB KOHL,

From the Committee on Commerce, Science, and Transportation:

TED STEVENS,
FRITZ HOLLINGS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1554), to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Section 1. Short title.

This Act may be cited as the ''Intellectual Property and Communications Omnibus Reform Act of 1999.''

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT ACT OF 1999

When Congress passed the Satellite Home Viewer Act in 1988, few Americans were familiar with satellite television. They typically resided in rural areas of the country where the only means of receiving television programming was through use of a large, backyard C-band satellite dish. Congress recognized the importance of providing these people with access to broadcast programming, and created a compulsory copyright license in the Satellite Home Viewer Act that enabled satellite carriers to easily license the copyrights to the broadcast programming that they retransmitted to their subscribers.

The 1988 Act fostered a boom in the satellite television industry. Coupled with the development of high-powered satellite service, or DSS, which delivers programming to a satellite dish as small as 18 inches in diameter, the satellite industry now serves homes nationwide with a wide range of high quality programming. Satellite is no longer primarily a rural service, for it offers an attractive alternative to other providers of multichannel video programming; in particular, cable television. Because satellite can provide direct competition with the cable industry, it is in the public interest to ensure that satellite operates under a copyright framework that permits it to be an effective competitor.

The compulsory copyright license created by the 1988 Act was limited to a five year period to enable Congress to consider its effectiveness and renew it where necessary. The license was renewed in 1994 for an additional five years, and amendments made that were intended to increase the enforcement of the network territorial restrictions of the compulsory license. Two-year transitional provisions were created to enable local network broadcasters to challenge satellite subscribers' receipt of satellite network service where the local network broadcaster had reason to believe that these subscribers received an adequate off-the-air signal from the broadcaster. The transitional provisions were minimally effective and caused much consumer confusion and anger regarding receipt of television network stations.

The satellite license is slated to expire at the end of this year, requiring Congress to again consider the copyright licensing regime for satellite retransmissions of over-the-air television broadcast stations. In passing this legislation, the Conference Committee was guided by several principles. First, the Conference Committee believes that promotion of competition in the marketplace for delivery of multichannel video programming is an effective policy to reduce costs to consumers. To that end, it is important that the satellite industry be afforded a statutory scheme for licensing television broadcast programming similar to that of the cable industry. At the same time, the practical differences between the two industries must be recognized and accounted for.

Second, the Conference Committee reasserts the importance of protecting and fostering the system of television networks as they relate to the concept of localism. It is well recognized that television broadcast stations provide valuable programming tailored to local needs, such as news, weather, special announcements and information related to local activities. To that end, the Committee has structured the copyright licensing regime for satellite to encourage and promote retransmissions by satellite of local television broadcast stations to subscribers who reside in the local markets of those stations.

Third, perhaps most importantly, the Conference Committee is aware that in creating compulsory licenses, it is acting in derogation of the exclusive property rights granted by the Copyright Act to copyright holders, and that it therefore needs to act as narrowly as possible to minimize the effects of the government's intrusion on the broader market in which the affected property rights and industries operate. In this context, the broadcast television market has developed in such a way that copyright licensing practices in this area take into account the national network structure, which grants exclusive territorial rights to programming in a local market to local stations either directly or through affiliation agreements. The licenses granted in this legislation attempt to hew as closely to those arrangements as possible. For example, these arrangements are mirrored in the section 122 ''local-to-local'' license, which grants satellite carriers the right to retransmit local stations within the station's local market, and does not require a separate copyright payment because the works have already been licensed and paid for with respect to viewers in those local markets. By contrast, allowing the importation of distant or out-of-market network stations in derogation of the local stations' exclusive right—bought and paid for in market-negotiated arrangements—to show the works in question undermines those market arrangements. Therefore, the specific

goal of the 119 license, which is to allow for a life-line network television service to those homes beyond the reach of their local television stations, must be met by only allowing distant network service to those homes which cannot receive the local network television stations. Hence, the ''unserved household'' limitation that has been in the license since its inception. The Committee is mindful and respectful of the interrelationship between the communications policy of ''localism'' outlined above and property rights considerations in copyright law, and seeks a proper balance between the two.

Finally, although the legislation promotes satellite retransmissions of local stations, the Conference Committee recognizes the continued need to monitor the effects of distant signal importation by satellite. To that end, the compulsory license for retransmission of distant signals is extended for a period of five years, to afford Congress the opportunity to evaluate the effectiveness and continuing need for that license at the end of the five-year period.

Section 1001. Short title

This title may be cited as the ''Satellite Home Viewer Improvement Act.''

Section 1002. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

The House and the Senate provisions were in most respects highly similar. The conference substitute generally follows the House approach, with the differences described here.

Section 1002 of this Act creates a new statutory license, with no sunset provision, as a new section 122 of the Copyright Act of 1976. The new license authorizes the retransmission of television broadcast stations by satellite carriers to subscribers located within the local markets of those stations.

Creation of a new statutory license for retransmission of local signals is necessary because the current section 119 license is limited to the retransmission of distance signals by satellite. The section 122 license allows satellite carriers for the first time to provide their subscribers with the television signals they want most: their local stations. A carrier may retransmit the signal of a network station (or superstation) to all subscribers who reside within the local market of that station, without regard to whether the subscriber resides in an ''unserved household.'' The term ''local market'' is defined in Section 119(j)(2), and generally refers to a station's Designated Market Area as defined by Nielsen.

Because the section 122 license is permanent, subscribers may obtain their local television stations without fear that their local broadcast service may be turned off at a future date. In addition, satellite carriers may deliver local stations to commercial establishments as well as homes, as the cable industry does under its license. These amendments create parity and enhanced competition between the satellite and cable industries in the provision of local television broadcast stations.

For a satellite carrier to be eligible for this license, this Act, following the House approach, provides both in new section 122(a) and in new section 122(d) that a carrier may use the new local-to-local license only if it is in full compliance with all applicable rules and regulations of the Federal Communications Commission, including any requirements that the Commission may adopt by regulation concerning carriage of stations or programming exclusivity. These provisions are modeled on similar provisions in section 111, the terrestrial compulsory license. Failure to fully comply with Commission rules with respect to retransmission of one or more stations in the local market precludes the carrier from making use of the section 122 license. Put another way, the statutory license overrides the normal copyright scheme only to the extent that carriers strictly comply with the limits Congress has put on that license.

Because terrestrial systems, such as cable, as a general rule do not pay any copyright royalty for local retransmissions of broadcast stations, the section 122 license does not require payment of any copyright royalty by satellite carriers for transmissions made in compliance with the requirements of section 122. By contrast, the section 119 statutory license for distant signals does require payment of royalties. In addition, the section 122 statutory license contains no ''unserved household'' limitation, while the section 119 license does contain that limitation.

Satellite carriers are liable for copyright infringement, and subject to the full remedies of the Copyright Act, if they violate one or more of the following requirements of the section 122 license. First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station.

Second, satellite carriers may not use the section 122 license to retransmit a television broadcast station to a subscriber located outside the local market of the station. Retransmission of a station to a subscriber located outside the station's local market is covered by section 119, and is permitted only when all conditions of that license are satisfied. Accordingly, satellite carriers are required to provide local broadcasters with accurate lists of the street addresses of their local-to-local subscribers so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for any other reason. Any knowing provision of false information by a satellite carrier would, under section 122(d), bar use of the Section 122 license by the carrier engaging in such practices. The section 122 license contains remedial provisions parallel to those of Section 119, including a ''pattern or practice'' provision that requires termination of the Section 122 statutory license as to a particular satellite carrier if it engages in certain abuses of the license.

Under this provision, just as in the statutory licenses codified in sections 111 and 119, a violation may be proven by showing willful activity, or simple delivery of the secondary transmission over a certain period of time. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to $250,000 for each 6–month period during which the pattern or practice of violations was carried out. Satellite carriers have the burden of proving that they are not improperly making use of the section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing. The penalties created under this section parallel those under Section 119, and are to deter satellite carriers from providing signals to subscribers in violation of the licenses.

The section 122 license is limited in geographic scope to service to locations in the United States, including any commonwealth, territory or possession of the United States. In addition, section 122(j) makes clear that local retransmission of television broadcast stations to subscribers is governed solely by the section 122 license, and that no provision of the section 111 cable compulsory license should be interpreted to allow satellite carriers to make local retransmissions of television broadcast stations under that license. Likewise, no provision of the section 119 license (or any other law) should be interpreted as authorizing local-to-local retransmissions. As with all statutory licenses, these explicit limitations are consistent with the general rule that, because statutory licenses are in derogation of the exclusive rights granted under the Copyright Act, they should be interpreted narrowly.

Section 1002(a) of this Act contains new standing provisions. Adopting the approach of the House bill, section 122(f)(1) of the Copyright Act is parallel to section 119(e), and ensures that local stations, in addition to any other parties that qualify under other standing provisions of the Act, will have the ability to sue for violations of section 122. New section 122(f)(2) of the Copyright Act enables a local television station that is not being carried by a satellite carrier in violation of the license to file a copyright infringement lawsuit in federal court to enforce its rights.

Section 1003. Extension of effect of amendments to section 119 of title 17, United States Code

As in both the House bill and the Senate amendment, this Act extends the section 119 satellite statutory license for a period of five years by changing the expiration date of the legislation from December 31, 1999, to December 31, 2004. The procedural and remedial provisions of section 119, which have already been interpreted by the courts, are being extended without change. Should the section 119 license be allowed to expire in 2004, it shall do so at midnight on December 31, 2004, so that the license will cover the entire second accounting period of 2004.

The advent of digital terrestrial broadcasting will necessitate additional review and reform of the distant signal statutory license. And responsibility to oversee the development of the nascent local station satellite service may also require for review of the distant signal statutory license in the future. For each of these reasons, this Act establishes a period for review in 5 years.

Although the section 119 regime is largely being extended in its current form, certain sections of the Act may have a near-term effect on pending copyright infringement lawsuits brought by broadcasters against satellite carriers. These changes are prospective only; Congress does not intend to change the legality of any conduct that occurred prior to the date of enactment. Congress does intend, however, to benefit consumers where possible and consistent with existing copyright law and principles.

This Act attempts to strike a balance among a variety of public policy goals. While increasing the number of potential subscribers to distant network signals, this Act clarifies that satellite carriers may carry up to, but no more than, two stations affiliated with the same network. The original purpose of the Satellite Home Viewer Act was to ensure that all Americans could receive network programming and other television services provided they could not receive those services over-the-air or in any other way. This bill reflects the desire of the Conference to meet this requirement and consumers' expectations to receive the traditional level of satellite service that has built up over the years, while avoiding an erosion of the programming market affected by the statutory licenses.

Section 1004. Computation of royalty fees for satellite carriers

Like both the House bill and the Senate amendment, this Act reduces the royalty fees currently paid by satellite carriers for the retransmission of network and superstations by 45 percent and 30 percent, respectively. These are reductions of the 27-cent royalty fees made effective by the Librarian

of Congress on January 1, 1998. The reductions take effect on July 1, 1999, which is the beginning of the second accounting period for 1999, and apply to all accounting periods for the five-year extension of the section 119 license. The Committee has drafted this provision such that, if the section 119 license is renewed after 2004, the 45 percent and 30 percent reductions of the 27-cent fee will remain in effect, unless altered by legislative amendment.

In addition, section 119(c) of title 17, United States Code, is amended to clarify that in royalty distribution proceedings conducted under section 802 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and all Public Broadcasting Service member stations.

Section 1005. Distant signal eligibility for consumers

The Senate bill contained provisions retaining the existing Grade B intensity standard in the definition of ''unserved household.'' The House agreed to the Senate provisions with amendments, which extend the ''unserved household'' definition of section 119 of title 17 intact in certain respects and amend it in other respects. Consistent with the approach of the Senate amendment, the central feature of the existing definition of ''unserved household''—inability to receive, through use of a conventional outdoor rooftop receiving antenna, a signal of Grade B intensity from a primary network station—remains intact. The legislation directs the FCC, however, to examine the definition of ''Grade B intensity'', reflecting the dBu levels long set by the Federal Communications Commission in 47 C.F.R. §73.683(a), and issue a rulemaking within 6 months after enactment to evaluate the standard and, if appropriate, make recommendations to Congress about how to modify the analog standard, and make a further recommendation about what an appropriate standard would be for digital signals. In this fashion, the Congress will have the best input and recommendations from the Commission, allowing the Commission wide latitude in its inquiry and recommendations, but reserve for itself the final decision-making authority over the scope of the copyright licenses in question, in light of all relevant factors.

The amended definition of ''unserved household'' makes other consumer-friendly changes. It will eliminate the requirement that a cable subscriber wait 90 days to be eligible for satellite delivery of distant network signals. After enactment, cable subscribers will be eligible to receive distant network signals by satellite, upon choosing to do so, if they satisfy the other requirements of section 119.

In addition, this Act adds three new categories to the definition of ''unserved household'' in section 119(d)(10): (a) certain subscribers to network programming who are not predicted to receive a signal of Grade A intensity from any station of the relevant network, (b) operators of recreational vehicles and commercial trucks who have complied with certain documentation requirements, and (c) certain C-band subscribers to network programming. This Act also confirms in new section 119(d)(10)(B) what has long been understood by the parties and accepted by the courts, namely that a subscriber may receive distant network service if all network stations affiliated with the relevant network that are predicted to serve that subscriber give their written consent.

Section 105(a)(2) of the bill creates a new section 119(a)(2)(B)(i) of the Copyright Act to prohibit a satellite carrier from delivering more than two distant TV stations affiliated with a single network in a single day to a particular customer. This clarifies that a satellite carrier provides a signal of a television station throughout the broadcast day, rather than switching between stations throughout a day to pick the best programming among different signals.

Section 1005(a)(2) of this Act creates a new section 119(a)(2)(B)(ii)(I) of the Copyright Act to confirm that courts should rely on the FCC's ILLR model to presumptively determine whether a household is capable of receiving a signal of Grade B intensity. The conferees understand that the parties to copyright infringement litigation under the Satellite Home Viewer Act have agreed on detailed procedures for implementing the current version of ILLR, and nothing in this Act requires any change in those procedures. In the future, when the FCC amends the ILLR model to make it more accurate pursuant to section 339(c)(3) of the Communications Act of 1934, the amended model should be used in place of the current version of ILLR. The new language also confirms in new section 119(a)(2)(B)(ii)(II) that the ultimate determination of eligibility to receive network signals shall be a signal intensity test pursuant to 47 C.F.R. §73.686(d), as reflected in new section 339(c)(5) of the Communications Act of 1934. Again, the conferees understand that existing Satellite Home Viewer Act court orders already incorporate this FCC-approved measurement method, and nothing in this Act requires any change in such orders. Such a signal intensity test may be conducted by any party to resolve a customer's eligibility in litigation under section 119.

Section 1005(a)(2) of this Act creates a new section 119(a)(2)(B)(iii) of the Copyright Act to permit continued delivery by means of C-band transmissions of network stations to C-band dish owners who received signals of the pertinent network on October 31, 1999, or were recently required to have such service terminated pursuant to court orders or settlements under section 119. This provision does not authorize satellite delivery of network stations to such persons by any technology other than C-band.

Section 1005(b) also adds a new provision (E) to section 119(a)(5). The purpose of this provision is to allow certain longstanding superstations to continue to be delivered to satellite customers without regard to the ''unserved household'' limitation, even if the station now technically qualifies as a ''network station'' under the 15–hour-per-week definition of the Act. This exception will cease to apply if such a station in the future becomes affiliated with one of the four networks (ABC, CBS, Fox, and NBC) that qualified as networks as of January 1, 1995.

Section 1005(c) of this Act adds a new section 119(e) of the Copyright Act. This provision contains a moratorium on terminations of network stations to certain otherwise ineligible recent subscribers to network programming whose service has been (or soon would have been) terminated and allows them to continue to be eligible for distant signal services. The subscribers affected are those predicted by the current version of the ILLR model to receive a signal of less than Grade A intensity from any network station of the relevant network defined in section 73.683(a) of Commission regulations (47 C.F.R. 73.683(a)) as in effect January 1, 1999. As the statutory language reflects, recent court orders and settlements between the satellite and broadcasting industries have required (or will in the near future require) significant numbers of terminations of network stations to ineligible subscribers in this category. Although the conferees strongly condemn lawbreaking by satellite carriers, and intend for satellite carriers to be subject to all other available legal remedies for any infringements in which the carriers have engaged, the conferees have concluded that the public interest will be served by the grandfathering of this limited category of subscribers whose service would otherwise be terminated.

The decision by the conferees to direct this limited grandfathering should not be understood as condoning unlawful conduct by satellite carriers, but rather reflects the concern of the conference for those subscribers who would otherwise be punished for the actions of the satellite carriers. Note that in the previous 18 months, court decisions have required the termination of some distant network signals to some subscribers. However, the Conferees are aware that in some cases satellite carriers terminated distant network service that was not subject to the original lawsuit. The Conferees intend that affected subscribers remain eligible for such service.

The words ''shall remain eligible'' in section 119(e) refer to eligibility to receive stations affiliated with the same network from the same satellite carrier through use of the same transmission technology at the same location; in other words, grandfathered status is not transferable to a different carrier or a different type of dish or at a new address. The provisions of new section 119(e) are incorporated by reference in the definition of ''unserved household'' as new section 119(d)(10)(C).

Section 1005(d) of this Act creates a new section 119(a)(11), which contains provisions governing delivery of network stations to recreational vehicles and commercial trucks. This provision is, in turn, incorporated in the definition of ''unserved household'' in new section 119(d)(10)(D). The purpose of these amendments is to allow the operators of recreational vehicles and commercial trucks to use satellite dishes permanently attached to those vehicles to receive, on television sets located inside those vehicles, distant network signals pursuant to section 119. To prevent abuse of this provision, the exception for recreational vehicles and commercial trucks is limited to persons who have strictly complied with the documentation requirements set forth in section 119(a)(11). Among other things, the exception will only become available as to a particular recreational vehicle or commercial truck after the satellite carrier has provided all affected networks with all documentation set forth in section 119(a). The exception will apply only for reception in that particular recreational vehicle or truck, and does not authorize any delivery of network stations to any fixed dwelling.

Section 1005(e) of this Act adds a new proviso to the definition of ''satellite carrier'' to exclude from that definition the provision of any ''digital online communications service.'' As the Copyright Office concluded in its 1997 Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals, no existing statutory license (whether in section 111, section 119, or otherwise) authorizes retransmission of television broadcast signals via the Internet or any other online service. The extension of any statutory license for television programming to online transmissions would raise profound policy considerations, including, most notably, the apparent impossibility of limiting such transmissions to ''unserved households.'' In any event, the committee's intent is that, neither section 111, section 119, nor section 122 creates any authorization for third parties to disseminate television programming via online delivery of any kind, and the amendment to the definition of ''satellite carrier'' simply confirms existing law on that point.

Section 1006. Public Broadcasting Service satellite feed

The conference agreement follows the Senate bill with an amendment that applies the network copyright royalty rate to the Public Broadcasting Service the satellite feed. The conference agreement grants satellite carriers a section 119 compulsory license to retransmit a national satellite feed distributed and designated by PBS. The license would apply to educational and informational programming to which PBS currently holds broadcast rights. The license, which would extend to all households in the United States, would sunset on January 1, 2002, the date when local-to-local must-carry obligations become effective. Under the conference agreement, PBS will designate the national satellite feed for purposes of this section.

Section 1007. Application of Federal Communications Commission regulations

The section 119 license is amended to clarify that satellite carriers must comply with all rules, regulations, and authorizations of the Federal Communications Commission in order to obtain the benefits of the section 119 license. As provided in the House bill, this would include any programming exclusivity provisions or carriage requirements that the Commission may adopt. Violations of such rules, regulations or authorizations would render a carrier ineligible for the copyright statutory license with respect to that retransmission.

Section 1008. Rules for satellite carriers retransmitting television broadcast signals

The Senate agrees to the House bill provisions regarding carriage of television broadcast signals, with certain amendments, as discussed below. Section 108 creates new sections 338 and 339 of the Communications Act of 1934. Section 338 addresses carriage of local television signals, while section 339 addresses distant television signals.

New section 338 requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations' signals in local markets in which the satellite carriers carry at least one signal pursuant to section 122 of title 17, United States Code. The conference report added the cross-reference to section 122 to the House provision to indicate the relationship between the benefits of the statutory license and the carriage requirements imposed by this Act. Thus, the conference report provides that, as of January 1, 2002, royalty-free copyright licenses for satellite carriers to retransmit broadcast signals to viewers in the broadcasters' service areas will be available only on a market-by-market basis.

The procedural provisions applicable to section 338 (concerning costs, avoidance of duplication, channel positioning, compensation for carriage, and complaints by broadcast stations) are generally parallel to those applicable to cable systems. Within one year after enactment, the Federal Communications Commission is to issue implementing regulations which are to impose obligations comparable to those imposed on cable systems under paragraphs (3) and (4) of section 614(b) and paragraphs (1) and (2) of section 615(g), such as the requirement to carry a station's entire signal without additions or deletions. The obligation to carry local stations on contiguous channels is illustrative of the general requirement to ensure that satellite carriers position local stations in a way that is convenient and practically accessible for consumers. By directing the FCC to promulgate these must-carry rules, the conferees do not take any position regarding the application of must-carry rules to carriage of digital television signals by either cable or satellite systems.

To make use of the local license, satellite carriers must provide the local broadcast station signal as part of their satellite service, in a manner consistent with paragraphs (b), (c), (d), and (e), FCC regulations, and retransmission consent requirements. Until January 1, 2002, satellite carriers are granted a royalty-free copyright license to retransmit broadcast signals on a station-by-station basis, consistent with retransmission consent requirements. The transition period is intended to provide the satellite industry with a transitional period to begin providing local-into-local satellite service to communities throughout the country.

The conferees believe that the must-carry provisions of this Act neither implicate nor violate the First Amendment. Rather than requiring carriage of stations in the manner of cable's mandated duty, this Act allows a satellite carrier to choose whether to incur the must-carry obligation in a particular market in exchange for the benefits of the local statutory license. It does not deprive any programmers of potential access to carriage by satellite carriers. Satellite carriers remain free to carry any programming for which they are able to acquire the property rights. The provisions of this Act allow carriers an easier and more inexpensive way to obtain the right to use the property of copyright holders when they retransmit signals from all of a market's broadcast stations to subscribers in that market. The choice whether to retransmit those signals is made by carriers, not by the Congress. The proposed licenses are a matter of legislative grace, in the nature of subsidies to satellite carriers, and reviewable under the rational basis standard.[1]

In addition, the conferees are confident that the proposed license provisions would pass constitutional muster even if subjected to the *O'Brien* standard applied to the cable must-carry requirement.[2] The proposed provisions are intended to preserve free television for those not served by satellite or cable systems and to promote widespread dissemination of information from a multiplicity of sources. The Supreme Court has found both to be substantial interests, unrelated to the suppression of free expression.[3] Providing the proposed license on a market-by-market basis furthers both goals by preventing satellite carriers from choosing to carry only certain stations and effectively preventing many other local broadcasters from reaching potential viewers in their service areas. The Conference Committee is concerned that, absent must-carry obligations, satellite carriers would carry the major network affiliates and few other signals. Non-carried stations would face the same loss of viewership Congress previously found with respect to cable noncarriage.[4]

The proposed licenses place satellite carrier in a comparable position to cable systems, competing for the same customers. Applying a must-carry rule in markets which satellite carriers choose to serve benefits consumers and enhances competition with cable by allowing consumers the same range of choice in local programming they receive through cable service. The conferees expect that, by January 1, 2002, satellite carriers' market share will have increased and that the Congress' interest in maintaining free over-the-air television will be undermined if local broadcasters are prevented from reaching viewers by either cable or satellite distribution systems. The Congress' preference for must-carry obligations has already been proven effective, as attested by the appearance of several emerging networks, which often serve underserved market segments. There are no narrower alternatives that would achieve the Congress' goals. Although the conferees expect that subscribers who receive no broadcast signals at all from their satellite service may install antennas or subscribe to cable service in addition to satellite service, the Conference Committee is less sanguine that subscribers who receive network signals and hundreds of other programming choices from their satellite carrier will undertake such trouble and expense to obtain over-the-air signals from independent broadcast stations. National feeds would also be counterproductive because they siphon potential viewers from local over-the-air affiliates. In sum, the Conference Committee finds that trading the benefits of the copyright license for the must carry requirement is a fair and reasonable way of helping viewers have access to all local programming while benefitting satellite carriers and their customers.

Section 338(c) contains a limited exception to the general must-carry requirements, stating that a satellite carrier need not carry two local affiliates of the same network that substantially duplicate each others' programming, unless the duplicating stations are licensed to communities in different states. The latter provisions address unique and limited cases, including WMUR (Manchester, New Hampshire)/WCVB (Boston, Massachusetts) and WPTZ (Plattsburg, New York)/WNNE (White River Junction, Vermont), in which mandatory carriage of both duplicating local stations upon request assures that satellite subscribers will not be precluded from receiving the network affiliate that is licensed to the state in which they reside.

Because of unique technical challenges on satellite technology and constraints on the use of satellite spectrum, satellite carriers may initially be limited in their ability to deliver must carry signals into multiple markets. New compression technologies, such as video streaming, may help overcome these barriers however, and, if deployed, could enable satellite carriers to deliver must-carry signals into many more markets than they could otherwise. Accordingly, the conferees urge the FCC, pursuant to its obligations under section 338, or in any other related proceedings, to not prohibit satellite carriers from using reasonable compression, reformatting, or similar technologies to meet their carriage obligations, consistent with existing authority.

New section 339 of the Communications Act contains provisions concerning carriage of distant television stations by satellite carriers. Section 339(a)(1) limits satellite carriers to providing a subscriber with no more than two stations affiliated with a given television network from outside the local market. In addition, a satellite carrier that provides two distant signals to eligible households may also provide the local television signals pursuant to section 122 of title 17 if the subscriber offers local-to-local service in the subscriber's market. This provision furthers the congressional policy of localism and diversity of broadcast programming, which provides locally-relevant news, weather, and information, but also allows consumers in unserved households to enjoy network programming obtained via distant signals. Under new section 339(a)(2), which is based on the Senate amendment, the knowing and willful provision of distant television

[1] See *Rust* v. *Sullivan*, 500 U.S. 173 (1991) (grants); *Indopco, Inc.* v. *Commissioner*, 503 U.S. 79, 84 (1992) (tax benefits). The First Amendment requires only that Congress not aim at ''the suppression of dangerous ideas.'' *NEA* v. *Finley*, 118 S. Ct. 2168, 2178–79 (1998).

[2] See *United States* v. *O'Brien*, 391 U.S. 367 (1968).

[3] See *Turner Broadcasting Sys., Inc.* v. *FCC*, 512 U.S. 622, 663 (1994).

[4] See, e.g., H.R. Rep. No. 102–628, p. 51 (1992); S. Rep. No. 102–92, p. 62 (1991); see also Feb. 24 Hearing (Al DeVaney).

signals in violation of these restrictions is subject to a forfeiture penalty under section 503 of the Communications Act of $50,000 per violation or for each day of a continuing violation.

New section 339(b)(1)(A) requires the Commission to commence within 45 days of enactment, and complete within one year after the date of enactment, a rulemaking to develop regulations to apply network nonduplication, syndicated exclusivity and sports blackout rules to the transmission of nationally distributed superstations by satellite carriers. New section 339(b)(1)(B) requires the Commission to promulgate regulations on the same schedule with regard to the application of sports blackout rules to network stations. These regulations under subparagraph (B) are to be imposed ''to the extent technically feasible and not economically prohibitive'' with respect to the affected parties. The burden of showing that conforming to rules similar to cable would be ''economically prohibitive'' is a heavy one. It would entail a very serious economic threat to the health of the carrier. Without that showing, the rules should be as similar as possible to that applicable to cable services.

Section 339(c) of the Communications Act of 1934 addresses the three distinct areas discussed by the Commission in its Report & Order in Docket No. 98–201: (i) the definition of ''Grade B intensity,'' which is the substantive standard for determining eligibility to receive distant network stations by satellite, (ii) prediction of whether a signal of Grade B intensity from a particular station is present at a particular household, and (iii) measurement of whether a signal of Grade B intensity from a particular station is present at a particular household. Section 339(c) addresses each of these topics.

New section 339(c) addresses evaluation and possible recommendations for modification by the Commission of the definition of Grade B intensity, which is incorporated into the definition of ''unserved household'' in section 119 of the Copyright Act. Under section 339(c), the Commission is to complete a rulemaking within 1 year after enactment to evaluate, and if appropriate to recommend modifications to the Grade B intensity standard for analog signals set forth in 47 C.F.R. §73.683(a), for purposes of determining eligibility for distant signal satellite service. In addition, the Commission is to recommend a signal standard for digital signals to prepare Congress to update the statutory license for digital television broadcasting. The Committee intends that this report would reflect the FCC's best recommendations in light of all relevant considerations, and be based on whatever factors and information the Commission deems relevant to determining whether the signal intensity standard should be modified and in what way. As discussed above, the two-part process allows the Commission to recommend modifications leaving to Congress the decision-making power on modifications of the copyright licenses at issue.

Section 339(c)(3) addresses requests to local television stations by consumers for waivers of the eligibility requirements under section 119 of title 17, United States Code. If a satellite carrier is barred from delivering distant network signals to a particular customer because the ILLR model predicts the customer to be served by one or more television stations affiliated with the relevant network, the consumer may submit to those stations, through his or her satellite carrier, a written request for a waiver. The statutory phrase ''station asserting that the retransmission is prohibited'' refers to a station that is predicted by the ILLR model to serve the household. Each such station must accept or reject the waiver request within 30 days after receiving the request from the satellite carrier. If a relevant network station grants the requested waiver, or fails to act on the waiver within 30 days, the viewer shall be deemed unserved with respect to the local network station in question.

Section 339(c)(4) addresses the ILLR predictive model developed by the Commission in Docket No. 98–201. The provision requires the Commission to attempt to increase its accuracy further by taking into account not only terrain, as the ILLR model does now, but also land cover variations such as buildings and vegetation. If the Commission discovers other practical ways to improve the accuracy of the ILLR model still further, it shall implement those methods as well. The linchpin of whether particular proposed refinements to the ILLR model result in greater accuracy is whether the revised model's predictions are closer to the results of actual field testing in terms of predicting whether households are served by a local affiliate of the relevant network.

The ILLR model of predicting subscribers' eligibility will be of particular use in rural areas. To make the ILLR more accurate and more useful to this group of Americans, the Conference Committee believes the Commission should be particularly careful to ensure that the ILLR is accurate in areas that use star routes, postal routes, or other addressing systems that may not indicate clearly the location of the actual dwelling of a potential subscriber. The Commission should to ensure the model accurately predicts the signal strength at the viewers' actual location.

New section 339(c)(5) addresses the third area discussed in the Commission's Report & Order in Docket No. 98–201, namely signal intensity testing. This provision permits satellite carriers and broadcasters to carry out signal intensity measurements, using the procedures set forth by the Commission in 47 C.F.R. §73.686(d), to determine whether particular households are unserved. Unless the parties otherwise agree, any such tests shall be conducted on a ''loser pays'' basis, with the network station bearing the costs of tests showing the household to be unserved, and the satellite carrier bearing the costs of tests showing the household to be served. If the satellite carrier and station is unable to agree on a qualified individual to perform the test, the Commission is to designate an independent and neutral entity by rule. The Commission is to promulgate rules that avoid any undue burdens being imposed on any party.

Section 1009. Retransmission consent

Section 1009 amends the provisions of section 325 of the Communications Act governing retransmission consent. As revised, section 325(b)(1) bars multichannel video programming distributors from retransmitting the signals of television broadcast stations, or any part thereof, without the express authority of the originating station. Section 325(b)(2) contains several exceptions to this general prohibition, including noncommercial stations, certain superstations, and, until the end of 2004, retransmission of not more than two distant signals by satellite carriers to unserved households outside of the local market of the retransmitted stations, and (E) for six months to the retransmission of local stations pursuant to the statutory license in section 122 of the title 17.

Section 1009 also amends section 325(b) of the Communications Act to require the Commission to issue regulations concerning the exercise by television broadcast stations of the right to grant retransmission consent. The regulations would, until January 1, 2006, prohibit a television broadcast station from entering into an exclusive retransmission consent agreement with a multichannel video programming distributor or refusing to negotiate in good faith regarding retransmission consent agreements. A television station may generally offer different retransmission consent terms or conditions, including price terms, to different distributors. The FCC may determine that such different terms represent a failure to negotiate in good faith only if they are not based on competitive marketplace considerations.

Section 1009 of the bill adds a new subsection (e) to section 325 of the Communications Act. New subsection 325(e) creates a set of expedited enforcement procedures for the alleged retransmission of a television broadcast station in its own local market without the station's consent. The purpose of these expedited procedure is to ensure that delays in obtaining relief from violations do not make the right to retransmission consent an empty one. The new provision requires 45-day processing of local-to-local retransmission consent complaints at the Commission, followed by expedited enforcement of any Commission orders in the United States District Court for the Eastern District of Virginia. In addition, a television broadcast station that has been retransmitted in its local market without its consent will be entitled to statutory damages of $25,000 per violation in an action in federal district court. Such damages will be awarded only if the television broadcast station agrees to contribute any statutory damage award above $1,000 to the United States Treasury for public purposes. The expedited enforcement provision contains a sunset which prevents the filing of any complaint with the Commission or any action in federal district court to enforce any Commission order under this section after December 31, 2001. The conferees believe that these procedural provisions, which provide ample due process protections while ensuring speedy enforcement, will ensure that retransmission consent will be respected by all parties and promote a smoothly functioning marketplace.

Section 1010. Severability

Section 1010 of the Act provides that if any provision of section 325(b) of the Communications Act as amended by this Act is declared unconstitutional, the remaining provisions of that section will stand.

Section 1011. Technical amendments

Section 1011 of this Act makes technical and conforming amendments to sections 101, 111, 119, 501, and 510 of the Copyright Act. Section 1011(e) makes a technical and clarifying change to the definition of a ''work made for hire'' in section 101 of the Copyright Act. Sound recordings have been registered in the Copyright Office as works made for hire since being protected in their own right. This clarifying amendment shall not be deemed to imply that any sound recording or any other work would not otherwise qualify as a work made for hire in the absence of the amendment made by this subsection.

Section 1012. Effective dates

Under section 1012 of this Act, sections 1001, 1003, 1005, and 1007 through 1011 shall be effective on the date of enactment. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

TITLE II—RURAL LOCAL TELEVISION SIGNALS

The Conference Committee agrees that it is very important that rural Americans receive the benefits of this Act along with urban residents. There are concerns that without this title, many rural Americans would not receive local broadcast signals.

Conferees were advised that major satellite carriers intended to provide local broadcast TV stations via satellite only in the largest markets rather than in more rural areas. These satellite providers have stated that is it not economically feasible to provide such service in rural areas at the present time. Many rural areas of the United States are not served by broadcast television or cable service.

Title II of this Act authorizes the Department of Agriculture, in consultation with OMB, the Secretary of Treasury, and the FCC, and with the certification of the National Telecommunications and Information Administration, to guarantee loans not exceeding $1.25 billion for providing local broadcast TV signals in rural areas. In addition, providers can offer other services, such as data service, should excess capacity permit. No single loan can exceed $625 million to any one provider and the rest of the loans may not exceed $100 million face value.

No loan shall be guaranteed unless: 1) approved in advance by an appropriations Act; 2) USDA consults with OMB, NTIA, and with a public accounting firm; 3) USDA has security that is ''adequate'' to protect the government's interests; 4) USDA can reasonably expect repayment ''using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government;'' and, 5) the borrower has ''insurance sufficient to protect the interests of the Federal Government.''

The provisions are technology neutral in that the borrower can use any delivery mechanism to provide local TV that otherwise meets the requirements of this title.

The language of Title II is similar to the Railroad Rehabilitation and Improvement Financing Act which provided up to $3.5 billion in federal loan guarantees to help shortline railroads serve rural America. The underwriting criteria for the USDA loan guarantee—such as cash flow levels and appropriate collateral—will be developed in consultation with OMB and a public accounting firm and are modeled after the Railroad Act language.

Section 2001. Short title

This title may be referred to as the ''Rural Local Broadcast Signal Act.''

Section 2002. Loan guarantees

Subject to appropriations Acts, the Secretary of Agriculture is authorized to establish a program of loan guarantees to fund projects which finance the acquisition, improvement, enhancement, deployment, launch, or rehabilitation of the means by which local television broadcast signals will be delivered to areas not receiving such signals over commercial for-profit direct-to-home satellite distribution systems.

No single guaranteed loan can exceed $625 million to any one provider of local TV stations and none of the remaining loans may exceed $100 million in face value. Strict requirements for insurance, collateral, assurances of repayments to the Secretary, perfected interests of the Secretary, liens on assets, and strong security provisions are set forth in the law. All of these provisions are designed to protect the interests of the taxpayers.

In developing underwriting standards relating to the issuance of loan guarantees, appropriate collateral and cash flow levels, the Secretary is required to consult with OMB and with a public accounting firm. In addition, the Secretary may accept on behalf of an applicant a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the loan.

Section 2003. Administration of loan guarantees

In deciding which loan guarantees to approve, the Secretary, to the maximum extent practicable shall give priority to projects which serve the most unserved and underserved rural markets, taking into account such factors as feasibility, population, terrain, prevailing market conditions, and projected costs to consumers. These applicants for priority projects shall agree to performance schedules which if missed make the borrower potentially subject to stiff penalties. Detailed subrogation, disposition of property, default, breach of agreement, attachment, and audit provisions are designed to protect the interests of the taxpayers.

The Secretary may require an affiliate of the borrower to indemnify the Government for any losses it incurs as a result of a judgment against the borrower, and breach of the borrower's obligations, or any violation of the provisions of the Act.

The sunset clause provides that the Secretary may not approve a loan guarantee under this title after December 31, 2006.

Section 2004. Retransmission of local television broadcast stations

Borrowers shall have the same copyright authority and other rights to transmit the signals of local television broadcast stations as provided in this title and shall carry the signals of local stations without charge.

Section 2005. Local television service in unserved and underserved markets

To encourage the FCC to approve needed licenses (or other authorizations to use spectrum) to provide local TV service in rural areas, the Commission is required to make determinations regarding needed licenses within one year of enactment.

However, the FCC shall ensure that no license or authorization provided under this section will cause ''harmful interference'' to the primary users of the spectrum or to public safety use. Subparagraph (2), states that the Commission shall not license under subsection (a) any facility that causes harmful interference to existing primary users of spectrum or to public safety use. The Commission typically categorizes a licensed service as primary or secondary. Under Commission rules, a secondary service cannot be authorized to operate in the same band as a primary user of that band unless the proposed secondary user conclusively demonstrates that the proposed secondary use will not cause harmful interference to the primary service. The Commission is to define ''harmful interference'' pursuant to the definition at 47 C.F.R. section 2.1 and in accordance with Commission rules and policies.

For purposes of section 2005(b)(3) the FCC may consider a compression, reformatting or other technology to be unreasonable if the technology is incompatible with other applicable FCC regulation or policy under the Communications Act of 1934, as amended.

The Commission also may not restrict any entity granted a license or other authorization under this section, except as otherwise specified, from using any reasonable compression, reformatting, or other technology.

Section 2006. Definitions

Section 2006 defines terms used in the title such as ''loan guarantees,'' ''discount rate,'' ''loan guarantee,'' ''modification,'' and ''borrower.''

TITLE III—TRADEMARK CYBERPIRACY PREVENTION

Section 3001. Short title; references

This section provides that the Act may be cited as the ''Anticybersquatting Consumer Protection Act'' and that any references within the bill to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946 (15 U.S.C. 1051 et seq.), also commonly referred to as the Lanham Act.

Sec. 3002. Cyberpiracy prevention

Subsection (a). In general

This subsection amends the Trademark Act to provide an explicit trademark remedy for cybersquatting under a new section 43(d). Under paragraph (1)(A) of the new section 43(d), actionable conduct would include the registration, trafficking in, or use of a domain name that is identical or confusingly similar to, or dilutive of, the mark of another, including a personal name that is protected as a mark under section 43 of the Lanham Act, provided that the mark was distinctive (i.e., enjoyed trademark status) at the time the domain name was registered, or in the case of trademark dilution, was famous at the time the domain name was registered. The bill is carefully and narrowly tailored, however, to extend only to cases where the plaintiff can demonstrate that the defendant registered, trafficked in, or used the offending domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else. Thus, the bill does not extend to innocent domain name registrations by those who are unaware of another's use of the name, or even to someone who is aware of the trademark status of the name but registers a domain name containing the mark for any reason other than with bad faith intent to profit from the goodwill associated with that mark.

The phrase ''including a personal name which is protected as a mark under this section'' addresses situations in which a person's name is protected under section 43 of the Lanham Act and is used as a domain name. The Lanham Act prohibits the use of false designations of origin and false or misleading representations. Protection under 43 of the Lanham Act has been applied by the courts to personal names which function as marks, such as service marks, when such marks are infringed. Infringement may occur when the endorsement of products or services in interstate commerce is falsely implied through the use of a personal name, or otherwise, without regard to the goods or services of the parties. This protection also applies to domain names on the Internet, where falsely implied endorsements and other types of infringement can cause greater harm to the owner and confusion to a consumer in a shorter amount of time than is the case with traditional media. The protection offered by section 43 to a personal name which functions as a mark, as applied to domain names, is subject to the same fair use and first amendment protections as have been applied traditionally under trademark law, and is not intended to expand or limit any rights to publicity recognized by States under State law.

Paragraph (1)(B)(i) of the new section 43(d) sets forth a number of nonexclusive, nonexhaustive factors to assist a court in determining whether the required bad-faith element exists in any given case. These factors are designed to balance the property interests of trademark owners with the legitimate interests of Internet users and others who seek to make lawful uses of others' marks, including for purposes such as comparative advertising, comment, criticism, parody, news reporting, fair use, etc. The bill suggests a total of nine factors a court may wish to consider. The first four suggest circumstances that may tend to indicate an absence of bad-faith intent to profit from the goodwill of a mark, and the next four suggest circumstances that may tend to indicate that such bad-faith intent exists. The last factor may suggest either bad-faith or

an absence thereof depending on the circumstances.

First, under paragraph (1)(B)(i)(I), a court may consider whether the domain name registrant has trademark or any other intellectual property rights in the name. This factor recognizes, as does trademark law in general, that there may be concurring uses of the same name that are noninfringing, such as the use of the ''Delta'' mark for both air travel and sink faucets. Similarly, the registration of the domain name ''deltaforce.com'' by a movie studio would not tend to indicate a bad faith intent on the part of the registrant to trade on Delta Airlines or Delta Faucets' trademarks.

Second, under paragraph (1)(B)(i)(II), a court may consider the extent to which the domain name is the same as the registrant's own legal name or a nickname by which that person is commonly identified. This factor recognizes, again as does the concept of fair use in trademark law, that a person should be able to be identified by their own name, whether in their business or on a web site. Similarly, a person may bear a legitimate nickname that is identical or similar to a well-known trademark, such as in the well-publicized case of the parents who registered the domain name ''pokey.org'' for their young son who goes by that name, and these individuals should not be deterred by this bill from using their name online. This factor is not intended to suggest that domain name registrants may evade the application of this act by merely adopting Exxon, Ford, or other well-known marks as their nicknames. It merely provides a court with the appropriate discretion to determine whether or not the fact that a person bears a nickname similar to a mark at issue is an indication of an absence of bad-faith on the part of the registrant.

Third, under paragraph (1)(B)(i)(III), a court may consider the domain name registrant's prior use, if any, of the domain name in connection with the bona fide offering of goods or services. Again, this factor recognizes that the legitimate use of the domain name in online commerce may be a good indicator of the intent of the person registering that name. Where the person has used the domain name in commerce without creating a likelihood of confusion as to the source or origin of the goods or services and has not otherwise attempted to use the name in order to profit from the goodwill of the trademark owner's name, a court may look to this as an indication of the absence of bad faith on the part of the registrant.

Fourth, under paragraph (1)(B)(i)(IV), a court may consider the person's bona fide noncommercial or fair use of the mark in a web site that is accessible under the domain name at issue. This factor is intended to balance the interests of trademark owners with the interests of those who would make lawful noncommercial or fair uses of others' marks online, such as in comparative advertising, comment, criticism, parody, news reporting, etc. Under the bill, the mere fact that the domain name is used for purposes of comparative advertising, comment, criticism, parody, news reporting, etc., would not alone establish a lack of bad-faith intent. The fact that a person uses a mark in a site in such a lawful manner may be an appropriate indication that the person's registration or use of the domain name lacked the required element of bad-faith. This factor is not intended to create a loophole that otherwise might swallow the bill, however, by allowing a domain name registrant to evade application of the Act by merely putting up a noninfringing site under an infringing domain name. For example, in the well know case of *Panavision Int'l* v. *Toeppen*, 141 F.3d 1316 (9th Cir. 1998), a well known cybersquatter had registered a host of domain names mirroring famous trademarks, including names for Panavision, Delta Airlines, Neiman Marcus, Eddie Bauer, Lufthansa, and more than 100 other marks, and had attempted to sell them to the mark owners for amounts in the range of $10,000 to $15,000 each. His use of the ''panavision.com'' and ''panaflex.com'' domain names was seemingly more innocuous, however, as they served as addresses for sites that merely displayed pictures of Pana Illinois and the word ''Hello'' respectively. This bill would not allow a person to evade the holding of that case—which found that Mr. Toeppen had made a commercial use of the Panavision marks and that such uses were, in fact, diluting under the Federal Trademark Dilution Act—merely by posting noninfringing uses of the trademark on a site accessible under the offending domain name, as Mr. Toeppen did. Similarly, the bill does not affect existing trademark law to the extent it has addressed the interplay between First Amendment protections and the rights of trademark owners. Rather, the bill gives courts the flexibility to weigh appropriate factors in determining whether the name was registered or used in bad faith, and it recognizes that one such factor may be the use the domain name registrant makes of the mark.

Fifth, under paragraph (1)(B)(i)(V), a court may consider whether, in registering or using the domain name, the registrant intended to divert consumers away from the trademark owner's website to a website that could harm the goodwill of the mark, either for purposes of commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site. This factor recognizes that one of the main reasons cybersquatters use other people's trademarks is to divert Internet users to their own sites by creating confusion as to the source, sponsorship, affiliation, or endorsement of the site. This is done for a number of reasons, including to pass off inferior goods under the name of a well-known mark holder, to defraud consumers into providing personally identifiable information, such as credit card numbers, to attract ''eyeballs'' to sites that price online advertising according to the number of ''hits'' the site receives, or even just to harm the value of the mark. Under this provision, a court may give appropriate weight to evidence that a domain name registrant intended to confuse or deceive the public in this manner when making a determination of bad-faith intent.

Sixth, under paragraph (1)(B)(i)(VI), a court may consider a domain name registrant's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain, where the registrant has not used, and did not have any intent to use, the domain name in the bona fide offering of any goods or services. A court may also consider a person's prior conduct indicating a pattern of such conduct. This factor is consistent with the court cases, like the Panavision case mentioned above, where courts have found a defendant's offer to sell the domain name to the legitimate mark owner as being indicative of the defendant's intent to trade on the value of a trademark owner's marks by engaging in the business of registering those marks and selling them to the rightful trademark owners. It does not suggest that a court should consider the mere offer to sell a domain name to a mark owner or the failure to use a name in the bona fide offering of goods or services as sufficient to indicate bad faith. Indeed, there are cases in which a person registers a name in anticipation of a business venture that simply never pans out. And someone who has a legitimate registration of a domain name that mirrors someone else's domain name, such as a trademark owner that is a lawful concurrent user of that name with another trademark owner, may, in fact, wish to sell that name to the other trademark owner. This bill does not imply that these facts are an indication of bad-faith. It merely provides a court with the necessary discretion to recognize the evidence of bad-faith when it is present. In practice, the offer to sell domain names for exorbitant amounts to the rightful mark owner has been one of the most common threads in abusive domain name registrations. Finally, by using the financial gain standard, this paragraph allows a court to examine the motives of the seller.

Seventh, under paragraph (1)(B)(i)(VII), a court may consider the registrant's intentional provision of material and misleading false contact information in an application for the domain name registration, the person's intentional failure to maintain accurate contact information, and the person's prior conduct indicating a pattern of such conduct. Falsification of contact information with the intent to evade identification and service of process by trademark owners is also a common thread in cases of cybersquatting. This factor recognizes that fact, while still recognizing that there may be circumstances in which the provision of false information may be due to other factors, such as mistake or, as some have suggested in the case of political dissidents, for purposes of anonymity. This bill balances those factors by limiting consideration to the person's contact information, and even then requiring that the provision of false information be material and misleading. As with the other factors, this factor is nonexclusive and a court is called upon to make a determination based on the facts presented whether or not the provision of false information does, in fact, indicate bad-faith.

Eight, under paragraph (1)(B)(i)(VIII), a court may consider the domain name registrant's acquisition of multiple domain names which the person knows are identical or confusingly similar to, or dilutive of, others' marks. This factor recognizes the increasingly common cybersquatting practice known as ''warehousing'', in which a cybersquatter registers multiple domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law developed under the Federal Trademark Dilution Act. This bill does not suggest that the mere registration of multiple domain names is an indication of bad faith, but it allows a court to weigh the fact that a person has registered multiple domain names that infringe or dilute the trademarks of others as part of its consideration of whether the requisite bad-faith intent exists.

Lastly, under paragraph (1)(B)(i)(IX), a court may consider the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c)(1) of section 43 of the Trademark Act of 1946. The more distinctive or famous a mark has become, the more likely the owner of that mark is deserving of the relief available under this act. At the same time, the fact that a mark is not well-known may also suggest a lack of bad-faith.

Paragraph (1)(B)(ii) underscores the bad-faith requirement by making clear that bad-faith shall not be found in any case in which the court determines that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

Paragraph (1)(C) makes clear that in any civil action brought under the new section 43(d), a court may order the forfeiture, cancellation, or transfer of a domain name to the owner of the mark.

Paragraph (1)(D) clarifies that a prohibited ''use'' of a domain name under the bill applies only to a use by the domain name registrant or that registrant's authorized licensee.

Paragraph (1)(E) defines what means to ''traffic in'' a domain name. Under this Act, ''traffics in'' refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

Paragraph (2)(A) provides for in rem jurisdiction, which allows a mark owner to seek the forfeiture, cancellation, or transfer of an infringing domain name by filing an in rem action against the name itself, where the mark owner has satisfied the court that it has exercised due diligence in trying to locate the owner of the domain name but is unable to do so, or where the mark owner is otherwise unable to obtain in personam jurisdiction over such person. As indicated above, a significant problem faced by trademark owners in the fight against cybersquatting is the fact that many cybersquatters register domain names under aliases or otherwise provide false information in their registration applications in order to avoid identification and service of process by the mark owner. This bill will alleviate this difficulty, while protecting the notions of fair play and substantial justice, by enabling a mark owner to seek an injunction against the infringing property in those cases where, after due diligence, a mark owner is unable to proceed against the domain name registrant because the registrant has provided false contact information and is otherwise not to be found, or where a court is unable to assert personal jurisdiction over such person, provided the mark owner can show that the domain name itself violates substantive federal trademark law (i.e., that the domain name violates the rights of the registrant of a mark registered in the Patent and Trademark Office, or section 43(a) or (c) of the Trademark Act). Under the bill, a mark owner will be deemed to have exercised due diligence in trying to find a defendant if the mark owner sends notice of the alleged violation and intent to proceed to the domain name registrant at the postal and e-mail address provided by the registrant to the registrar and publishes notice of the action as the court may direct promptly after filing the action. Such acts are deemed to constitute service of process by paragraph (2)(B).

The concept of in rem jurisdiction has been with us since well before the Supreme Court's landmark decision in *Pennoyer* v. *Neff*, 95 U.S. 714 (1877). Although more recent decisions have called into question the viability of quasi in rem ''attachment'' jurisdiction, see *Shaffer* v. *Heitner*, 433 U.S. 186 (1977), the Court has expressly acknowledged the propriety of true in rem proceedings (or even type I quasi in rem proceedings[5]) where ''claims to the property itself are the source of the underlying controversy between the plaintiff and the defendant.'' Id. at 207–08. The Act clarifies the availability of in rem jurisdiction in appropriate cases involving claims by trademark holders against cyberpirates. In so doing, the Act reinforces the view that in rem jurisdiction has continuing constitutional vitality, see *R.M.S. Titanic, Inc.* v. *Haver*, 171 F.3d 943, 957–58 (4th Cir. 1999) (''In rem actions only require that a party seeking an interest in a res bring the res into the custody of the court and provide reasonable, public notice of its intention to enable others to appear in the action to claim an interest in the res.''); *Chapman* v. *Vande Bunte*, 604 F. Supp. 714, 716–17 (E.D. N.C. 1985) (''In a true in rem proceeding, in order to subject property to a judgment in rem, due process requires only that the property itself have certain minimum contacts with the territory of the forum.'').

By authorizing in rem jurisdiction, the Act also attempts to respond to the problems faced by trademark holders in attempting to effect personal service of process on cyberpirates. In an effort to avoid being held accountable for their infringement or dilution of famous trademarks, cyberpirates often have registered domain names under fictitious names and addresses or have used offshore addresses or companies to register domain names. Even when they actually do receive notice of a trademark holder's claim, cyberpirates often either refuse to acknowledge demands from a trademark holder altogether, or simply respond to an initial demand and then ignore all further efforts by the trademark holder to secure the cyberpirate's compliance. The in rem provisions of the Act accordingly contemplate that a trademark holder may initiate in rem proceedings in cases where domain name registrants are not subject to personal jurisdiction or cannot reasonably be found by the trademark holder.

Paragraph (2)(C) provides that in an in rem proceeding, a domain name shall be deemed to have its situs in the judicial district in which (1) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located, or (2) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

Paragraph (2)(D) limits the relief available in such an in rem action to an injunction ordering the forfeiture, cancellation, or transfer of the domain name. Upon receipt of a written notification of the complaint, the domain name registrar, registry, or other authority is required to deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court, and may not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court. Such domain name registrar, registry, or other authority is immune from injunctive or monetary relief in such an action, except in the case of bad faith or reckless disregard, which would include a willful failure to comply with any such court order.

Paragraph (3) makes clear that the new civil action created by this Act and the in rem action established therein, and any remedies available under such actions, shall be in addition to any other civil action or remedy otherwise applicable. This paragraph thus makes clear that the creation of a new section 43(d) in the Trademark Act does not in any way limit the application of current provisions of trademark, unfair competition and false advertising, or dilution law, or other remedies under counterfeiting or other statutes, to cybersquatting cases.

Paragraph (4) makes clear that the in rem jurisdiction established by the bill is in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.

Subsection (b). Cyberpiracy protection for individuals

Subsection (b) prohibits the registration of a domain name that is the name of another living person, or a name that is substantially and confusingly similar thereto, without such person's permission, if the registrant's specific intent is to profit from the domain name by selling it for financial gain to such person or a third party. While the provision is broad enough to apply to the registration of full names (e.g., johndoe.com), appellations (e.g., doe.com), and variations thereon (e.g. john-doe.com or jondoe.com), the provision is still very narrow in that it requires a showing that the registrant of the domain name registered that name with a specific intent to profit from the name by selling it to that person or to a third party for financial gain. This section authorizes the court to grant injunctive relief, including ordering the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. Although the subsection does not authorize a court to grant monetary damages, the court may award costs and attorneys' fees to the prevailing party in appropriate cases.

This subsection does not prohibit the registration of a domain name in good faith by an owner or licensee of a copyrighted work, such as an audiovisual work, a sound recording, a book, or other work of authorship, where the personal name is used in, affiliated with, or related to that work, where the person's intent in registering the domain is not to sell the domain name other than in conjunction with the lawful exploitation of the work, and where such registration is not prohibited by a contract between the domain name registered and the named person. This limited exemption recognizes the First Amendment issues that may arise in such cases and defers to existing bodies of law that have developed under State and Federal law to address such uses of personal names in conjunction with works of expression. Such an exemption is not intended to provide a loophole for those whose specific intent is to profit from another's name by selling the domain name to that person or a third party other than in conjunction with the bona fide exploitation of a legitimate work of authorship. For example, the registration of a domain name containing a personal name by the author of a screenplay that bears the same name, with the intent to sell the domain name in conjunction with the sale or license of the screenplay to a production studio would not be barred by this subsection, although other provisions of State or Federal law may apply. On the other hand, the exemption for good faith registrations of domain names tied to legitimate works of authorship would not exempt a person who registers a personal name as a domain name with the intent to sell the domain name by itself, or in conjunction with a work of authorship (e.g., a copyrighted web page) where the real object of the sale is the domain name, rather than the copyrighted work.

In sum, this subsection is a narrow provision intended to curtail one form of ''cybersquatting''—the act of registering someone else's name as a domain name for the purpose of demanding remuneration from the person in exchange for the domain name. Neither this section nor any other section in this bill is intended to create a right of publicity of any kind with respect to domain names. Nor is it intended to create any new property rights, intellectual or otherwise, in a domain name that is the name of a person. This subsection applies prospectively only,

[5] The Supreme Court has described the ''two types'' of quasi in rem proceedings: a type I proceeding, in which ''the plaintiff is seeking to secure a pre-existing claim in the subject property and to extinguish or establish the nonexistence of similar interests of particular persons,'' and a type II action, in which ''the plaintiff seeks to apply what he concedes to be the property of the defendant to the satisfaction of a claim against him.'' *Hanson* v. *Denckla*, 357 U.S. 235, 246 n.12 (1958).

affecting only those domain names registered on or after the date of enactment of this Act.

Sec. 3003. Damages and remedies

This section applies traditional trademark remedies, including injunctive relief, recovery of defendant's profits, actual damages, and costs, to cybersquatting cases under the new section 43(d) of the Trademark Act. The bill also amends section 35 of the Trademark Act to provide for statutory damages in cybersquatting cases, in an amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just.

Sec. 3004. Limitation on liability

This section amends section 32(2) of the Trademark Act to extend the Trademark Act's existing limitations on liability to the cybersquatting context. This section also creates a new subparagraph (D) in section 32(2) to encourage domain name registrars and registries to work with trademark owners to prevent cybersquatting through a limited exemption from liability for domain name registrars and registries that suspend, cancel, or transfer domain names pursuant to a court order or in the implementation of a reasonable policy prohibiting cybersquatting. Under this exemption, a registrar, registry, or other domain name registration authority that suspends, cancels, or transfers a domain name pursuant to a court order or a reasonable policy prohibiting cybersquatting will not be held liable for monetary damages, and will not be subject to injunctive relief provided that the registrar, registry, or other registration authority has deposited control of the domain name with a court in which an action has been filed regarding the disposition of the domain name, it has not transferred, suspended, or otherwise modified the domain name during the pendency of the action, other than in response to a court order, and it has not willfully failed to comply with any such court order. Thus, the exemption will allow a domain name registrar, registry, or other registration authority to avoid being joined in a civil action regarding the disposition of a domain name that has been taken down pursuant to a dispute resolution policy, provided the court has obtained control over the name from the registrar, registry, or other registration authority, but such registrar, registry, or other registration authority would not be immune from suit for injunctive relief where no such action has been filed or where the registrar, registry, or other registration authority has transferred, suspended, or otherwise modified the domain name during the pendency of the action or wilfully failed to comply with a court order.

This section also protects the rights of domain name registrants against overreaching trademark owners. Under a new subparagraph (D)(iv) in section 32(2), a trademark owner who knowingly and materially misrepresents to the domain name registrar or registry that a domain name is infringing shall be liable to the domain name registrant for damages resulting from the suspension, cancellation, or transfer of the domain name. In addition, the court may grant injunctive relief to the domain name registrant by ordering the reactivation of the domain name or the transfer of the domain name back to the domain name registrant. In creating a new subparagraph (D)(iii) of section 32(2), this section codifies current case law limiting the secondary liability of domain name registrars and registries for the act of registration of a domain name, absent bad-faith on the part of the registrar and registry.

Finally, subparagraph (D)(v) provides additional protections for domain name holders by allowing a domain name registrant whose name has been suspended, disabled, or transferred to file a civil action to establish that the registration or use of the domain name by such registrant is not a violation of the Lanham Act. In such cases, a court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.

Sec. 3005. Definitions

This section amends the Trademark Act's definitions section (section 45) to add definitions for key terms used in this Act. First, the term ''Internet'' is defined consistent with the meaning given that term in the Communications Act (47 U.S.C. 230(f)(1)). Second, this section creates a narrow definition of ''domain name'' to target the specific bad faith conduct sought to be addressed while excluding such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry.

Sec. 3006. Study on abusive domain name registrations involving personal names

This section directs the Secretary of Commerce, in consultation with the Patent and Trademark Office and the Federal Election Commission, to conduct a study and report to Congress with recommendations on guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto. This section further directs the Secretary of Commerce to collaborate with the Internet Corporation for Assigned Names and Numbers (ICANN) to develop guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto.

Sec. 3007. Historic preservation

This section provides a limited immunity from suit under trademark law for historic buildings that are on or eligible for inclusion on the National Register of Historic Places, or that are designated as an individual landmark or as a contributing building in a historic district.

Sec. 3008. Savings clause

This section provides an explicit savings clause making clear that the bill does not affect traditional trademark defenses, such as fair use, or a person's first amendment rights.

Sec. 3009. Effective date

This section provides that damages provided for under this bill shall not apply to the registration, trafficking, or use of a domain name that took place prior to the enactment of this Act.

TITLE VI—INVENTOR PROTECTION

Sec. 4001. Short title

This title may be cited as the ''American Inventors Protection Act of 1999.''

Sec. 4002. Table of contents

Section 4002 enumerates the table of contents of this title.

SUBTITLE A—INVENTORS' RIGHTS

Subtitle A creates a new section 297 in chapter 29 of title 35 of the United States Code, designed to curb the deceptive practices of certain invention promotion companies. Many of these companies advertise on television and in magazines that inventors may call a toll-free number for assistance in marketing their inventions. They are sent an invention evaluation form, which they are asked to complete to allow the promoter to provide expert analysis of the market potential of their inventions. The inventors return the form with descriptions of the inventions, which become the basis for contacts by salespeople at the promotion companies. The next step is usually a ''professional''-appearing product research report which contains nothing more than boilerplate information stating that the invention has outstanding market potential and fills an important need in the field. The promotion companies attempt to convince the inventor to buy their marketing services, normally on a sliding scale in which the promoter will ask for a front-end payment of up to $10,000 and a percentage of resulting profits, or a reduced front-end payment of $6,000 or $8,000 with commensurately larger royalties on profits. Once paid under such a scenario, a promoter will typically and only forward information to a list of companies that never respond.

This subtitle addresses these problems by (1) requiring an invention promoter to disclose certain materially relevant information to a customer in writing prior to entering into a contract for invention promotion services; (2) establishing a federal cause of action for inventors who are injured by material false or fraudulent statements or representations, or any omission of material fact, by an invention promoter, or by the invention promoter's failure to make the required written disclosures; and (3) requiring the Director of the United States Patent and Trademark Office to make publicly available complaints received involving invention promoters, along with the response to such complaints, if any, from the invention promoters.

Sec. 4101. Short title

This subtitle may be cited as the ''Inventors' Rights Act of 1999.''

Sec. 4102. Integrity in invention promotion services

This section adds a new section 297 to chapter 29 of title 35, United States Code, intended to promote integrity in invention promotion services. Legitimate invention assistance and development organizations can be of great assistance to novice inventors by providing information on how to protect an invention, how to develop it, how to obtain financing to manufacture it, or how to license or sell the invention. While many invention developers are legitimate, the unscrupulous ones take advantage of untutored inventors, asking for large sums of money up front for which they provide no real service in return. This new section provides a much needed safeguard to assist independent inventors in avoiding becoming victims of the predatory practices of unscrupulous invention promoters.

New section 297(a) of title 35 requires an invention promoter to disclose certain materially relevant information to a customer in writing prior to entering into a contract for invention promotion services. Such information includes: (1) The number of inventions evaluated by the invention promoter and stating the number of those evaluated positively and the number negatively; (2) The number of customers who have contracted for services with the invention promoter in the prior five years; (3) The number of customers known by the invention promoter to have received a net financial profit as a direct result of the invention promoter's services; (4) The number of customers known by the invention promoter to have received license agreements for their inventions as a direct result of the invention promoter's services; and (5) the names and addresses of all previous invention promotion companies with which the invention promoter or its officers have collectively or individually been affiliated in the previous 10 years to enable the customer to evaluate the reputations of these companies.

New section 297(b) of title 35 establishes a civil cause of action against any invention

promoter who injures a customer through any material false or fraudulent statement, representation, or omission of material fact by the invention promoter, or any person acting on behalf of the invention promoter, or through failure of the invention promoter to make all the disclosures required under subsection (a). In such a civil action, the customer may recover, in addition to reasonable costs and attorneys' fees, the amount of actual damages incurred by the customer or, at the customer's election, statutory damages up to $5,000, as the court considers just. Subsection (b)(2) authorizes the court to increase damages to an amount not to exceed three times the amount awarded as statutory or actual damages in a case where the customer demonstrates, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or failed to make the required disclosures under subsection (a), for the purpose of deceiving the customer. In determining the amount of increased damages, courts may take into account whether regulatory sanctions or other corrective action has been taken as a result of previous complaints against the invention promoter.

New section 297(c) defines the terms used in the section. These definitions are carefully crafted to cover true invention promoters without casting the net too broadly. Paragraph (3) excepts from the definition of ''invention promoter'' departments and agencies of the Federal, state, and local governments; any nonprofit, charitable, scientific, or educational organizations qualified under applicable State laws or described under §170(b)(1)(A) of the Internal Revenue Code of 1986; persons or entities involved in evaluating the commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application; any party participating in a transaction involving the sale of the stock or assets of a business; or any party who directly engages in the business of retail sales or distribution of products. Paragraph (4) defines the term ''invention promotion services'' to mean the procurement or attempted procurement for a customer of a firm, corporation, or other entity to develop and market products or services that include the customer's invention.

New section 297(d) requires the Director of the USPTO to make publicly available all complaints submitted to the USPTO regarding invention promoters, together with any responses by invention promoters to those complaints. The Director is required to notify the invention promoter of a complaint and provide a reasonable opportunity to reply prior to making such complaint public. Section 297(d)(2) authorizes the Director to request from Federal and State agencies copies of any complaints relating to invention promotion services they have received and to include those complaints in the records maintained by the USPTO regarding invention promotion services. It is anticipated that the Director will use appropriate discretion in making such complaints available to the public for a reasonably sufficient, yet limited, length of time, such as a period of three years from the date of receipt, and that the Director will consult with the Federal Trade Commission to determine whether the disclosure requirements of the FTC and section 297(a) can be coordinated.

Sec. 4103. Effective date

This section provides that the effective date of section 297 will be 60 days after the date of enactment of this Act.

SUBTITLE B—PATENT AND TRADEMARK FEE FAIRNESS

Subtitle B provides patent and trademark fee reform, by lowering patent fees, by directing the Director of the USPTO to study alternative fee structures to encourage full participation in our patent system by all inventors, large and small, and by strengthening the prohibition against the use of trademark fees for non-trademark uses.

Sec. 4201. Short title

This subtitle may be cited as the ''Patent and Trademark Fee Fairness Act of 1999.''

Sec. 4202. Adjustment of patent fees

This section reduces patent filing and reissue fees by $50, and reduces patent maintenance fees by $110. This would mark only the second time in history that patent fees have been reduced. Because trademark fees have not been increased since 1993 and because of the application of accounting based cost principles and systems, patent fee income has been partially offsetting the cost of trademark operations. This section will restore fairness to patent and trademark fees by reducing patent fees to better reflect the cost of services.

Sec. 4203. Adjustment of trademark fees

This section will allow the Director of the USPTO to adjust trademark fees in fiscal year 2000 without regard to fluctuations in the Consumer Price Index in order to better align those fees with the costs of services.

Sec. 4204. Study on alternative fee structures

This section directs the Director of the USPTO to conduct a study and report to the Judiciary Committees of the House and Senate within one year on alternative fee structures that could be adopted by the USPTO to encourage maximum participation in the patent system by the American inventor community.

Sec. 4205. Patent and Trademark Office funding

Pursuant to section 42(c) of the Patent Act, fees available to the Commissioner under section 31 of the Trademark Act of 1946[6] may be used only for the processing of trademark registrations and for other trademark-related activities, and to cover a proportionate share of the administrative costs of the USPTO. In an effort to more tightly ''fence'' trademark funds for trademark purposes, section 4205 amends this language such that all (trademark) fees available to the Commissioner shall be used for trademark registration and other trademark-related purposes. In other words, the Commissioner may exercise no discretion when spending funds; they must be earmarked for trademark purposes.

SUBTITLE C—FIRST INVENTOR DEFENSE

Subtitle C strikes an equitable balance between the interests of U.S. inventors who have invented and commercialized business methods and processes, many of which until recently were thought not to be patentable, and U.S. or foreign inventors who later patent the methods and processes. The subtitle creates a defense for inventors who have reduced an invention to practice in the U.S. at least one year before the patent filing date of another, typically later, inventor and commercially used the invention in the U.S. before the filing date. A party entitled to the defense must not have derived the invention from the patent owner. The bill protects the patent owner by providing that the establishment of the defense by such an inventor or entrepreneur does not invalidate the patent.

The subtitle clarifies the interface between two key branches of intellectual property law—patents and trade secrets. Patent law serves the public interest by encouraging innovation and investment in new technology, and may be thought of as providing a right to exclude other parties from an invention in return for the inventor making a public disclosure of the invention. Trade secret law, however, also serves the public interest by protecting investments in new technology. Trade secrets have taken on a new importance with an increase in the ability to patent all business methods and processes. It would be administratively and economically impossible to expect any inventor to apply for a patent on all methods and processes now deemed patentable. In order to protect inventors and to encourage proper disclosure, this subtitle focuses on methods for doing and conducting business, including methods used in connection with internal commercial operations as well as those used in connection with the sale or transfer of useful end results—whether in the form of physical products, or in the form of services, or in the form of some other useful results; for example, results produced through the manipulation of data or other inputs to produce a useful result.

The earlier-inventor defense is important to many small and large businesses, including financial services, software companies, and manufacturing firms—any business that relies on innovative business processes and methods. The 1998 opinion by the U.S. Court of Appeals for the Federal Circuit in *State Street Bank and Trust Co.* v. *Signature Financial Group,*[7] which held that methods of doing business are patentable, has added to the urgency of the issue. As the Court noted, the reference to the business method exception had been improperly applied to a wide variety of processes, blurring the essential question of whether the invention produced a ''useful, concrete, and tangible result.'' In the wake of State Street, thousands of methods and processes used internally are now being patented. In the past, many businesses that developed and used such methods and processes thought secrecy was the only protection available. Under established law, any of these inventions which have been in commercial use—public or secret—for more than one year cannot now be the subject of a valid U.S. patent.

Sec. 4301. Short title

This subtitle may be cited as the ''First Inventor Defense Act of 1999.''

Sec.4302. Defense to patent infringement based on earlier inventor

In establishing the defense, subsection (a) of section 4302 creates a new section 273 of the Patent Act, which in subsection (a) sets forth the following definitions:

(1) ''Commercially used and commercial use'' mean use of any method in the United States so long as the use is in connection with an internal commercial use or an actual sale or transfer of a useful end result;

(2) ''Commercial use as applied to a nonprofit research laboratory and nonprofit entities such as a university, research center, or hospital intended to benefit the public'' means that such entities may assert the defense only based on continued use by and in the entities themselves, but that the defense is inapplicable to subsequent commercialization or use outside the entities;

(3) ''Method'' means any method for doing or conducting an entity's business; and

(4) ''Effective filing date'' means the earlier of the actual filing date of the application for the patent or the filing date of any earlier U.S., foreign, or international application to which the subject matter at issue is entitled under the Patent Act.

To be ''commercially used'' or in ''commercial use'' for purposes of subsection (a), the use must be in connection with either an internal commercial use or an actual arm's-

[6] 615 U.S.C. §1051, *et seq.*

[7] 149 F.3d 1368 (Fed. Cir. 1998) [hereinafter *State Street*].

length sale or other arm's-length commercial transfer of a useful end result. The method that is the subject matter of the defense may be an internal method for doing business, such as an internal human resources management process, or a method for conducting business such as a preliminary or intermediate manufacturing procedure, which contributes to the effectiveness of the business by producing a useful end result for the internal operation of the business or for external sale. Commercial use does not require the subject matter at issue to be accessible to or otherwise known to the public.

Subject matter that must undergo a premarketing regulatory review period during which safety or efficacy is established before commercial marketing or use is considered to be commercially used and in commercial use during the regulatory review period.

The issue of whether an invention is a method is to be determined based on its underlying nature and not on the technicality of the form of the claims in the patent. For example, a method for doing or conducting business that has been claimed in a patent as a programmed machine, as in the State Street case, is a method for purposes of section 273 if the invention could have as easily been claimed as a method. Form should not rule substance.

Subsection (b)(1) of section 273 establishes a general defense against infringement under section 271 of the Patent Act. Specifically, a person will not be held liable with respect to any subject matter that would otherwise infringe one or more claims to a method in another party's patent if the person:

(1) Acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of the patent; and

(2) Commercially used the subject matter before the effective filing date of the patent.

The first inventor defense is not limited to methods in any particular industry such as the financial services industry, but applies to any industry which relies on trade secrecy for protecting methods for doing or conducting the operations of their business.

Subsection (b)(2) states that the sale or other lawful disposition of a useful end result produced by a patented method, by a person entitled to assert a section 273 defense, exhausts the patent owner's rights with respect to that end result to the same extent such rights would have been exhausted had the sale or other disposition been made by the patent owner. For example, if a purchaser would have had the right to resell a product or other end result if bought from the patent owner, the purchaser will have the same right if the product is purchased from a person entitled to a section 273 defense.

Subsection (b)(3) creates limitations and qualifications on the use of the defense. First, a person may not assert the defense unless the invention for which the defense is asserted is for a commercial use of a method as defined in section 273(a)(1) and (3). Second, a person may not assert the defense if the subject matter was derived from the patent owner or persons in privity with the patent owner. Third, subsection (b)(3) makes clear that the application of the defense does not create a general license under all claims of the patent in question—it extends only to the specific subject matter claimed in the patent with respect to which the person can assert the defense. At the same time, however, the defense does extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements that do not infringe additional, specifically-claimed subject matter.

Subsection (b)(4) requires that the person asserting the defense has the burden of proof in establishing it by clear and convincing evidence. Subsection (b)(5) establishes that the person who abandons the commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing the defense with respect to actions taken after the date of abandonment. Such a person can rely only on the date when commercial use of the subject matter was resumed.

Subsection (b)(6) notes that the defense may only be asserted by the person who performed the acts necessary to establish the defense, and, except for transfer to the patent owner, the right to assert the defense cannot be licensed, assigned, or transferred to a third party except as an ancillary and subordinate part of a good-faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

When the defense has been transferred along with the enterprise or line of business to which it relates as permitted by subsection (b)(6), subsection (b)(7) limits the sites for which the defense may be asserted. Specifically, when the enterprise or line of business to which the defense relates has been transferred, the defense may be asserted only for uses at those sites where the subject matter was used before the later of the patent filing date or the date of transfer of the enterprise or line of business.

Subsection (b)(8) states that a person who fails to demonstrate a reasonable basis for asserting the defense may be held liable for attorneys' fees under section 285 of the Patent Act.

Subsection (b)(9) specifies that the successful assertion of the defense does not mean that the affected patent is invalid. Paragraph (9) eliminates a point of uncertainty under current law, and strikes a balance between the rights of an inventor who obtains a patent after another inventor has taken the steps to qualify for a prior use defense. The bill provides that the commercial use of a method in operating a business before the patentee's filing date, by an individual or entity that can establish a section 273 defense, does not invalidate the patent. For example, under current law, although the matter has seldom been litigated, a party who commercially used an invention in secrecy before the patent filing date and who also invented the subject matter before the patent owner's invention may argue that the patent is invalid under section 102 (g) of the Patent Act. Arguably, commercial use of an invention in secrecy is not suppression or concealment of the invention within the meaning of section 102(g), and therefore the party's earlier invention could invalidate the patent.[8]

Sec. 4303. Effective date and applicability

The effective date for subtitle C is the date of enactment, except that the title does not apply to any infringement action pending on the date of enactment or to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before the date of enactment.

SUBTITLE D—PATENT TERM GUARANTEE

Subtitle D amends the provisions in the Patent Act that compensate patent applicants for certain reductions in patent term that are not the fault of the applicant. The provisions that were initially included in the term adjustment provisions of patent bills in the 105th Congress only provided adjustments for up to 10 years for secrecy orders, interferences, and successful appeals. Not only are these adjustments too short in some cases, but no adjustments were provided for administrative delays caused by the USPTO that were beyond the control of the applicant. Accordingly, subtitle D removes the 10–year caps from the existing provisions, adds a new provision to compensate applicants fully for USPTO-caused administrative delays, and, for good measure, includes a new provision guaranteeing diligent applicants at least a 17–year term by extending the term of any patent not granted within three years of filing. Thus, no patent applicant diligently seeking to obtain a patent will receive a term of less than the 17 years as provided under the pre-GATT[9] standard; in fact, most will receive considerably more. Only those who purposely manipulate the system to delay the issuance of their patents will be penalized under subtitle D, a result that the Conferees believe entirely appropriate.

Sec. 4401. Short title

This subtitle may be cited as the ''Patent Term Guarantee Act of 1999.''

Sec. 4402. Patent term guarantee authority

Section 4402 amends section 154(b) of the Patent Act covering term. First, new subsection (b)(1)(A)(i)–(iv) guarantees day-for-day restoration of term lost as a result of delay created by the USPTO when the agency fails to:

(1) Make a notification of the rejection of any claim for a patent or any objection or argument under §132, or give or mail a written notice of allowance under §151, within 14 months after the date on which a non-provisional application was actually filed in the USPTO;

(2) Respond to a reply under §132, or to an appeal taken under §134, within four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application within four months after the date of a decision by the Board of Patent Appeals and Interferences under §134 or §135 or a decision by a Federal court under §§141, 145, or 146 in a case in which allowable claims remain in the application; or

(4) Issue a patent within four months after the date on which the issue fee was paid under §151 and all outstanding requirements were satisfied.

Further, subject to certain limitations, *infra*, section 154(b)(1)(B) guarantees a total application pendency of no more than three years. Specifically, day-for-day restoration of term is granted if the USPTO has not issued a patent within three years after ''the actual date of the application in the United States.'' This language was intentionally selected to exclude the filing date of an application under the Patent Cooperation Treaty (PCT).[10] Otherwise, an applicant could obtain up to a 30–month extension of a U.S. patent merely by filing under PCT, rather than directly in the USPTO, gaining an unfair advantage in contrast to strictly domestic applicants. Any periods of time—

(1) consumed in the continued examination of the application under §132(b) of the Patent Act as added by section 4403 of this Act;

(2) lost due to an interference under section135(a), a secrecy order under section 181, or appellate review by the Board of Patent Appeals and Interferences or by a Federal court (irrespective of the outcome); and

[8] *See Dunlop Holdings* v. *Ram Golf Corp.*, 524 F.2d 33 (7th Cir. 1975), cert. denied, 424 US 985 (1976).

[9] General Agreement on Tariffs and Trade, Pub. L. No. 103–465. The framework for international trade since its inception in 1948, GATT is now administered under the auspices of the World Trade Organization (WTO) (see note 19, infra).

[10] *See* Herbert F. Schwartz, Patent Law & Practice (2d ed., Federal Judicial Center, 1995), note 72 at 22. The PCT is a multilateral treaty among more than 50 nations that is designed to simplify the patenting process when an applicant seeks a patent on the same invention in more than one nation. *See also* 35 U.S.C.A. chs. 35–37 and PCT Applicant's Guide (1992, rev. 1994).

(3) incurred at the request of an applicant in excess of the three months to respond to a notice from the Office permitted by section 154(b)(2)(C)(ii) unless excused by a showing by the applicant under section 154(b)(3)(C) that in spite of all due care the applicant could not respond within three months

shall not be considered a delay by the USPTO and shall not be counted for purposes of determining whether the patent issued within three years from the actual filing date.

Day-for-day restoration is also granted under new section 154(b)(1)(C) for delays resulting from interferences,[11] secrecy orders,[12] and appeals by the Board of Patent Appeals and Interferences or a Federal court in which a patent was issued as a result of a decision reversing an adverse determination of patentability.

Section 4402 imposes limitations on restoration of term. In general, pursuant to new §154(b)(2)(A)–(C) of the bill, total adjustments granted for restorations under (b)(1) are reduced as follows:

(1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under section 181 and administrative delay under section 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed;

(2) The term of any patent which has been disclaimed beyond a date certain may not receive an adjustment beyond the expiration date specified in the disclaimer; and

(3) Adjustments shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application, based on regulations developed by the Director, and an applicant shall be deemed to have failed to engage in such reasonable efforts for any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection or other request;

New section 154(b)(3) sets forth the procedures for the adjustment of patent terms. Paragraph (3)(A) empowers the Director to establish regulations by which term extensions are determined and contested. Paragraph (3)(B) requires the Director to send a notice of any determination with the notice of allowance and to give the applicant one opportunity to request reconsideration of the determination. Paragraph (3)(C) requires the Director to reinstate any time the applicant takes to respond to a notice from the Office in excess of three months that was deducted from any patent term extension that would otherwise have been granted if the applicant can show that he or she was, in spite of all due care, unable to respond within three months. In no case shall more than an additional three months be reinstated for each response. Paragraph (3)(D) requires the Director to grant the patent after completion of determining any patent term extension irrespective of whether the applicant appeals.

New section 154(b)(4) regulates appeals of term adjustment determinations made by the Director. Paragraph (4)(A) requires a dissatisfied applicant to seek remedy in the District Court for the District of Columbia under the Administrative Procedures Act[13] within 180 days after the grant of the patent. The Director shall alter the term of the patent to reflect any final judgment. Paragraph (4)(B) precludes a third party from challenging the determination of a patent term prior to patent grant.

Section 4402(b) makes certain conforming amendments to section 282 of the Patent Act and the appellate jurisdiction of the U.S. Court of Appeals for the Federal Circuit.[14]

Sec. 4403. Continued examination of patent applications

Section 4403 amends section 132 of the Patent Act to permit an applicant to request that an examiner continue the examination of an application following a notice of ''final'' rejection by the examiner. New section 132(b) authorizes the Director to prescribe regulations for the continued examination of an application notwithstanding a final rejection, at the request of the applicant. The Director may also establish appropriate fees for continued examination proceedings, and shall provide a 50% fee reduction for small entities which qualify for such treatment under section 41(h)(1) of the Patent Act.

Section 4404. Technical clarification

Section 4404 of the bill coordinates technical term adjustment provisions set forth in section 154(b) with those in section 156(a) of the Patent Act.

Section 4405. Effective date

The effective date for the amendments in section 4402 and 4404 is six months after the date of enactment and, with the exception of design applications (the terms of which are not measured from filing), applies to any application filed on or after such date. The amendments made by section 4403 take effect six months after date of enactment to allow the USPTO to prepare implementing regulations that apply to all national and international (PCT) applications filed on or after June 8, 1995.

SUBTITLE E—DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD

Subtitle E provides for the publication of pending patent applications which have a corresponding foreign counterpart. Any pending U.S. application filed only in the United States (e.g., one that does not have a foreign counterpart) will not be published if the applicant so requests. Thus, an applicant wishing to maintain her application in confidence may do so merely by filing only in the United States and requesting that the USPTO not publish the application. For those applicants who do file abroad or who voluntarily publish their applications, provisional rights will be available for assertion against any third party who uses the claimed invention between publication and grant provided that substantially similar claims are contained in both the published application and granted patent. This change will ensure that American inventors will be able to see the technology that our foreign competition is seeking to patent much earlier than is possible today.

Sec. 4501. Short title

This subtitle may be cited as the ''Domestic Publication of Foreign Filed Patent Applications Act of 1999.''

Sec. 4502. Publication

As provided in subsection (a) of section 4502, amended section 122(a) of the Patent Act continues the general rule that patent applications will be maintained in confidence. Paragraph (1)(A) of new subsection (b) of section 122 creates a new exception to this general rule by requiring publication of certain applications promptly after the expiration of an 18–month period following the earliest claimed U.S. or foreign filing date. The Director is authorized by subparagraph (B) to determine what information concerning published applications shall be made available to the public, and, under subparagraph (C) any decision made in this regard is final and not subject to review.

Subsection (b)(2) enumerates exceptions to the general rule requiring publication. Subparagraph (A) precludes publication of any application that is: (1) no longer pending at the 18th month from filing; (2) the subject of a secrecy order until the secrecy order is rescinded; (3) a provisional application;[15] or (4) a design patent application.[16]

Pursuant to subparagraph (B)(i), any applicant who is not filing overseas and does not wish her application to be published can simply make a request and state that her invention has not and will not be the subject of an application filed in a foreign country that requires publication after 18 months. Subparagraph (B)(ii) clarifies that an applicant may rescind this request at any time. Moreover, if an applicant has requested that her application not be published in a foreign country with a publication requirement, subparagraph (B)(iii) imposes a duty on the applicant to notify the Director of this fact. An unexcused failure to notify the Director will result in the abandonment of the application. If an applicant either rescinds a request that her application not be published or notifies the Director that an application has been filed in an early publication country or through the PCT, the U.S. application will be published at 18 months pursuant to subsection (b)(1).

Finally, under subparagraph (B)(v), where an applicant has filed an application in a foreign country, either directly or through the PCT, so that the application will be published 18 months from its earliest effective filing date, the applicant may limit the scope of the publication by the USPTO to the total of the cumulative scope of the applications filed in all foreign countries. Where the foreign application is identical to the application filed in the United States or where an application filed under the PCT is identical to the application filed in the United States, the applicant may not limit the extent to which the application filed in the United States is published. However, where an applicant has limited the description of an application filed in a foreign country, either directly or through the PCT in comparison with the application filed in the USPTO, the applicant may restrict the publication by the USPTO to no more than the cumulative details of what will be published in all of the foreign applications and through the PCT. The applicant may restrict the extent of publication of her U.S. application by submitting a redacted copy of the application to the USPTO eliminating only those details that will not be published in any of the foreign applications. Any description contained in at least one of the foreign national or PCT filings may not be excluded from publication in the corresponding U.S. patent application. To ensure that any redacted copy of the U.S. application is published in place of the original U.S. application, the redacted copy must be received within 16 months from the earliest effective filing date. Finally, if the published U.S. application as redacted by the applicant does

[11] 35 U.S.C. §135(a).

[12] 35 U.S.C. §181.

[13] 5 U.S.C. §§551–559, 701–706, 1305, 3105, 3344, 5372, 7521.

[14] 28 U.S.C. §1295.

[15] 35 U.S.C. §111(b). Pursuant to 35 U.S.C. §111(b)(5), all provisional applications are abandoned 12 months after the date of their filing; accordingly, they are not subject to the 18-month publication requirement.

[16] 35 U.S.C. §171. Since design applications do not disclose technology, inventors do not have a particular interest in having them published. The bill as written therefore simplifies the proposed system of publication to confine the requirement to those applications for which there is a need for publication.

not enable a person skilled in the art to make and use the claimed invention, provisional rights under section 154(d) shall not be available.

Subsection (c) requires the Director to establish procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication without the express written consent of the applicant.

Subsection (d) protects our national security by providing that no application may be published under subsection (b)(1) where the publication or disclosure of such invention would be detrimental to the national security. In addition, the Director of the USPTO is required to establish appropriate procedures to ensure that such applications are promptly identified and the secrecy of such inventions is maintained in accordance with chapter 17 of the Patent Act, which governs secrecy of inventions in the interest of national security.

Subsection (b) of section 4502 of subtitle E requires the Government Accounting Office (GAO) to conduct a study of applicants who file only in the United States during a three-year period beginning on the effective date of subtitle E. The study will focus on the percentage of U.S. applicants who file only in the United States versus those who file outside the United States; how many domestic-only filers request not to be published; how many who request not to be published later rescind that request; and whether there is any correlation between the type of applicant (e.g., small vs. large entity) and publication. The Comptroller General must submit the findings of the study, once completed, to the Committees on the Judiciary of the House and Senate.

Sec. 4503. Time for claiming benefit of earlier filing date

Section 119 of the Patent Act prescribes procedures to implement the right to claim priority under Article 4 of the Paris Convention for the Protection of Industrial Property.[17] Under that Article, an applicant seeking protection in the United States may claim the filing date of an application for the same invention filed in another Convention country—provided the subsequent application is filed in the United States within 12 months of the earlier filing in the foreign country.

Section 4503 of subtitle V amends section 119(b) of the Patent Act to authorize the Director to establish a cut-off date by which the applicant must claim priority. This is to ensure that the claim will be made early enough—generally not later than the 16th month from the earliest effective filing date—so as to permit an orderly publication schedule for pending applications. As the USPTO moves to electronic filing, it is envisioned that this date could be moved closer to the 18th month.

The amendment to §119(b) also gives the Director the discretion to consider the failure of the applicant to file a timely claim for priority to be a waiver of any such priority claim. The Director is also authorized to establish procedures (including the payment of a surcharge) to accept an unintentionally delayed priority claim.

Section 4503(b) of subtitle E amends section 120 of the Patent Act in a similar way. This provision empowers the Director to: (1) establish a time by which the priority of an earlier filed United States application must be claimed; (2) consider the failure to meet that time limit to be a waiver of the right to claim such priority; and (3) accept an unintentionally late claim of priority subject to the payment of a surcharge.

Sec. 4504. Provisional rights

Section 4504 amends section 154 of the Patent Act by adding a new subsection (d) to accord provisional rights to obtain a reasonable royalty for applicants whose applications are published under amended section 122(b) of the Patent Act, supra, or applications designating the United States filed under the PCT. Generally, this provision establishes the right of an applicant to obtain a reasonable royalty from any person who, during the period beginning on the date that his or her application is published and ending on the date a patent is issued—

(1) makes, uses, offers for sale, or sells the invention in the United States, or imports such an invention into the United States; or

(2) if the invention claimed is a process, makes, uses, offers for sale, sells, or imports a product made by that process in the United States; and

(3) had actual notice of the published application and, in the case of an application filed under the PCT designating the United States that is published in a language other than English, a translation of the application into English.

The requirement of actual notice is critical. The mere fact that the published application is included in a commercial database where it might be found is insufficient. The published applicant must give actual notice of the published application to the accused infringer and explain what acts are regarded as giving rise to provisional rights.

Another important limitation on the availability of provisional royalties is that the claims in the published application that are alleged to give rise to provisional rights must also appear in the patent in substantially identical form. To allow anything less than substantial identity would impose an unacceptable burden on the public. If provisional rights were available in the situation where the only valid claim infringed first appeared in substantially that form in the granted patent, the public would have no guidance as to the specific behavior to avoid between publication and grant. Every person or company that might be operating within the scope of the disclosure of the published application would have to conduct her own private examination to determine whether a published application contained patentable subject matter that she should avoid. The burden should be on the applicant to initially draft a schedule of claims that gives adequate notice to the public of what she is seeking to patent.

Amended section 154(d)(3) imposes a six-year statute of limitations from grant in which an action for reasonable royalties must be brought.

Amended section 154(d)(4) sets forth some additional rules qualifying when an international application under the PCT will give rise to provisional rights. The date that will give rise to provisional rights for international applications will be the date on which the USPTO receives a copy of the application published under the PCT in the English language; if the application is published under the PCT in a language other than English, then the date on which provisional rights will arise will be the date on which the USPTO receives a translation of the international application in the English language. The Director is empowered to require an applicant to provide a copy of the international application and a translation of it.

Sec. 4505. Prior art effect of published applications

Section 4505 amends section 102(e) of the Patent Act to treat an application published by the USPTO in the same fashion as a patent published by the USPTO. Accordingly, a published application is given prior art effect as of its earliest effective U.S. filing date against any subsequently filed U.S. applications. As with patents, any foreign filing date to which the published application is entitled will not be the effective filing date of the U.S. published application for prior art purposes. An exception to this general rule is made for international applications designating the United States that are published under Article 21(2)(a) of the PCT in the English language. Such applications are given a prior art effect as of their international filing date. The prior art effect accorded to patents under section 4505 remains unchanged from present section 102(e) of the Patent Act.

Sec. 4506. Cost recovery for publications

Section 4506 authorizes the Director to recover the costs of early publication required by the amendment made by section 4502 of this Act by charging a separate publication fee after a notice of allowance is given pursuant to section 151 of the Patent Act.

Sec. 4507. Conforming amendments

Section 4507 consists of various technical and conforming amendments to the Patent Act. These include amending section 181 of the Patent Act to clarify that publication of pending applications does not apply to applications under secrecy orders, and amending section 284 of the Patent Act to ensure that increased damages authorized under section 284 shall not apply to the reasonable royalties possible under amended section 154(d). In addition, section 374 of the Patent Act is amended to provide that the effect of the publication of an international application designating the United States shall be the same as the publication of an application published under amended section 122(b), except as its effect as prior art is modified by amended section 102(e) and its giving rise to provisional rights is qualified by new section 154(d).

Sec. 4508. Effective date

Subtitle E shall take effect on the date that is one year after the date of enactment and shall apply to all applications filed under section 111 of the Patent Act on or after that date; and to all applications complying with section 371 of the Patent Act that resulted from international applications filed on or after that date. The provisional rights provided in amended section 154(d) and the prior art effect provided in amended section 102(e) shall apply to all applications pending on the date that is one year after the date of enactment that are voluntarily published by their applicants. Finally, section 404 (provisional rights) shall apply to international applications designating the United States that are filed on or after the date that is one year after the date of enactment.

SUBTITLE F—OPTIONAL INTER PARTES REEXAMINATION PROCEDURE

Subtitle F is intended to reduce expensive patent litigation in U.S. district courts by giving third-party requesters, in addition to the existing ex parte reexamination in Chapter 30 of title 35, the option of inter partes reexamination proceedings in the USPTO. Congress enacted legislation to authorize ex parte reexamination of patents in the USPTO in 1980, but such reexamination has been used infrequently since a third party who requests reexamination cannot participate at all after initiating the proceedings. Numerous witnesses have suggested that the volume of lawsuits in district courts will be reduced if third parties can be encouraged to use reexamination by giving them an opportunity to argue their case for patent invalidity in the USPTO. Subtitle F provides

[17] Mar. 20, 1883, as revised at Brussels, Dec. 14, 1900, 25 Stat. 1645, T.S. No. 579, and subsequently through 1967. The Convention has 156 member nations, including the United States.

that opportunity as an option to the existing ex parte reexamination proceedings.

Subtitle F leaves existing ex parte reexamination procedures in Chapter 30 of title 35 intact, but establishes an inter partes reexamination procedure which third-party requesters can use at their option. Subtitle VI allows third parties who request inter partes reexamination to submit one written comment each time the patent owner files a response to the USPTO. In addition, such third-party requesters can appeal to the USPTO Board of Patent Appeals and Interferences from an examiner's determination that the reexamined patent is valid, but may not appeal to the Court of Appeals for the Federal Circuit. To prevent harassment, anyone who requests inter partes reexamination must identify the real party in interest and third-party requesters who participate in an inter partes reexamination proceeding are estopped from raising in a subsequent court action or inter partes reexamination any issue of patent validity that they raised or could have raised during such inter partes reexamination.

Subtitle F contains the important threshold safeguard (also applied in ex parte reexamination) that an inter partes reexamination cannot be commenced unless the USPTO makes a determination that a ''substantial new question'' of patentability is raised. Also, as under Chapter 30, this determination cannot be appealed, and grounds for inter partes reexamination are limited to earlier patents and printed publications—grounds that USPTO examiners are well-suited to consider.

Sec. 4601. Short title

This subtitle may be cited as the ''Optional *Inter Partes* Reexamination Procedure Act.''

Sec. 4602. Clarification of Chapter 30

This section distinguishes Chapter 31 from existing Chapter 30 by changing the title of Chapter 30 to ''*Ex Parte* Reexamination of Patents.''

Sec. 4603. Definitions

This section amends section 100 of the Patent Act by defining ''third-party requester'' as a person who is not the patent owner requesting ex parte reexamination under section 302 or inter partes reexamination under section 311.

Sec. 4604. Optional inter partes reexamination procedure

Section 4604 amends Part III of title 35 by inserting a new Chapter 31 setting forth optional inter partes reexamination procedures.

New section 311, as amended by this section, differs from section 302 of existing law in Chapter 30 of the Patent Act by requiring any person filing a written request for inter partes reexamination to identify the real party in interest.

Similar to section 303 of existing law, new section 312 of the Patent Act confers upon the Director the authority and responsibility to determine, within three months after the filing of a request for inter partes reexamination, whether a substantial new question affecting patentability of any claim of the patent is raised by the request. Also, the decision in this regard is final and not subject to judicial review.

Proposed sections 313–14 under this subtitle are similarly modeled after sections 304–305 of Chapter 30. Under proposed section 313, if the Director determines that a substantial new question of patentability affecting a claim is raised, the determination shall include an order for inter partes reexamination for resolution of the question. The order may be accompanied by the initial USPTO action on the merits of the inter partes reexamination conducted in accordance with section 314. Generally, under proposed section 314, inter partes reexamination shall be conducted according to the procedures set forth in sections 132–133 of the Patent Act. The patent owner will be permitted to propose any amendment to the patent and a new claim or claims, with the same exception contained in section 305: no proposed amended or new claim enlarging the scope of the claims will be allowed.

Proposed section 314 elaborates on procedure with regard to third-party requesters who, for the first time, are given the option to participate in inter partes reexamination proceedings. With the exception of the inter partes reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party. In addition, the third party-requester in an inter partes reexamination shall receive a copy of any communication sent by the USPTO to the patent owner. After each response by the patent owner to an action on the merits by the USPTO, the third-party requester shall have one opportunity to file written comments addressing issues raised by the USPTO or raised in the patent owner's response. Unless ordered by the Director for good cause, the agency must act in an inter partes reexamination matter with special dispatch.

Proposed section 315 prescribes the procedures for appeal of an adverse USPTO decision by the patent owner and the third-party requester in an inter partes reexamination. Both the patent owner and the third-party requester are entitled to appeal to the Board of Patent Appeals and Interferences (section 134 of the Patent Act), but only the patentee can appeal to the U.S. Court of Appeals for the Federal Circuit (§§141–144); either may also be a party to any appeal by the other to the Board of Patent Appeals and Interferences. The patentee is not entitled to the alternative of an appeal of an inter partes reexamination to the U.S. District Court for the District of Columbia. Such appeals are rarely taken from ex parte reexamination proceedings under existing law and its removal should speed up the process.

To deter unnecessary litigation, proposed section 315 imposes constraints on the third-party requester. In general, a third-party requester who is granted an inter partes reexamination by the USPTO may not assert at a later time in any civil action in U.S. district court[18] the invalidity of any claim finally determined to be patentable on any ground that the third-party requester raised or could have raised during the inter partes reexamination. However, the third-party requester may assert invalidity based on newly discovered prior art unavailable at the time of the reexamination. Prior art was unavailable at the time of the inter partes reexamination if it was not known to the individuals who were involved in the reexamination proceeding on behalf of the third-party requester and the USPTO.

Section 316 provides for the Director to issue and publish certificates canceling unpatentable claims, confirming patentable claims, and incorporating any amended or new claim determined to be patentable in an inter partes procedure.

Subtitle F creates a new section 317 which sets forth certain conditions by which inter partes reexamination is prohibited to guard against harassment of a patent holder. In general, once an order for inter partes reexamination has been issued, neither a third-party requester nor the patent owner may file a subsequent request for inter partes reexamination until an inter partes reexamination certificate is issued and published, unless authorized by the Director. Further, if a third-party requester asserts patent invalidity in a civil action and a final decision is entered that the party failed to prove the assertion of invalidity, or if a final decision in an inter partes reexamination instituted by the requester is favorable to patentability, after any appeals, that third-party requester cannot thereafter request inter partes reexamination on the basis of issues which were or which could have been raised. However, the third-party requester may assert invalidity based on newly discovered prior art unavailable at the time of the civil action or inter partes reexamination. Prior art was unavailable at the time if it was not known to the individuals who were involved in the civil action or inter partes reexamination proceeding on behalf of the third-party requester and the USPTO.

Proposed section 318 gives a patent owner the right, once an inter partes reexamination has been ordered, to obtain a stay of any pending litigation involving an issue of patentability of any claims of the patent that are the subject of the inter partes reexamination, unless the court determines that the stay would not serve the interests of justice.

Sec. 4605. Conforming amendments

Section 4605 makes the following conforming amendments to the Patent Act:

A patent owner must pay a fee of $1,210 for each petition in connection with an unintentionally abandoned application, delayed payment, or delayed response by the patent owner during any reexamination.

A patent applicant, any of whose claims has been twice rejected; a patent owner in a reexamination proceeding; and a third-party requester in an inter partes reexamination proceeding may all appeal final adverse decisions from a primary examiner to the Board of Patent Appeals and Interferences.

Proposed section 141 states that a patent owner in a reexamination proceeding may appeal an adverse decision by the Board of Patent Appeals and Interferences only to the U.S. Court of Appeals for the Federal Circuit as earlier noted. A third-party requester in an inter partes reexamination proceeding may not appeal beyond the Board of Patent Appeals and Interferences.

The Director is required pursuant to section 143 (proceedings on appeal to the Federal Circuit) to submit to the court the grounds for the USPTO decision in any reexamination addressing all the issues involved in the appeal.

Sec. 4606. Report to Congress

Not later than five years after the effective date of subtitle F, the Director must submit to Congress a report evaluating whether the inter partes reexamination proceedings set forth in the title are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for change to eliminate the inequity.

Sec. 4607. Estoppel effect of reexamination

Section 4607 estops any party who requests inter partes reexamination from challenging at a later time, in any civil action, any fact determined during the process of the inter partes reexamination, except with respect to a fact determination later proved to be erroneous based on information unavailable at the time of the inter partes reexamination. The estoppel arises after a final decision in the inter partes reexamination or a final decision in any appeal of such reexamination. If section 4607 is held to be unenforceable, the enforceability of the rest of subtitle F or the Act is not affected.

Sec. 4608. Effective date

Subtitle F shall take effect on the date of the enactment and shall apply to any patent that issues from an original application filed in the United States on or after that date, except that the amendments made by section

[18] See 28 U.S.C. §1338.

4605(a) shall take effect one year from the date of enactment.

SUBTITLE G—UNITED STATES PATENT AND TRADEMARK OFFICE

Subtitle G establishes the United States Patent and Trademark Office (USPTO) as an agency of the United States within the Department of Commerce. The Secretary of Commerce gives policy direction to the agency, but the agency is autonomous and responsible for the management and administration of its operations and has independent control of budget allocations and expenditures, personnel decisions and processes, and procurement. The Committee intends that the Office will conduct its patent and trademark operations without micro-management by Department of Commerce officials, with the exception of policy guidance of the Secretary. The agency is headed by an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, a Deputy, and a Commissioner of Patents and a Commissioner of Trademarks. The agency is exempt from government-wide personnel ceilings. A patent public advisory committee and a trademark public advisory committee are established to advise the Director on agency policies, goals, performance, budget and user fees.

Sec. 4701. Short title

This subtitle may be cited as the ''Patent and Trademark Office Efficiency Act.''

SUBCHAPTER A—UNITED STATES PATENT AND TRADEMARK OFFICE

Sec. 4711. Establishment of Patent and Trademark Office

Section 4711 establishes the USPTO as an agency of the United States within the Department of Commerce and under the policy direction of the Secretary of Commerce. The USPTO, as an autonomous agency, is explicitly responsible for decisions regarding the management and administration of its operations and has independent control of budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. Patent operations and trademark operations are to be treated as separate operating units within the Office, each under the direction of its respective Commissioner, as supervised by the Director.

The USPTO shall maintain its principal office in the metropolitan Washington, D.C., area, for the service of process and papers and for the purpose of discharging its functions. For purposes of venue in civil actions, the agency is deemed to be a resident of the district in which its principal office is located, except where otherwise provided by law. The USPTO is also permitted to establish satellite offices in such other places in the United States as it considers necessary and appropriate to conduct business. This is intended to allow the USPTO, if appropriate, to serve American applicants better.

Sec. 4712. Powers and duties

Subject to the policy direction of the Secretary of the Commerce, in general the USPTO will be responsible for the granting and issuing of patents, the registration of trademarks, and the dissemination of patent and trademark information to the public.

The USPTO will also possess specific powers, which include:

(1) a requirement to adopt and use an Office seal for judicial notice purposes and for authenticating patents, trademark certificates and papers issued by the Office;

(2) the authority to establish regulations, not inconsistent with law, that

(A) govern the conduct of USPTO proceedings within the Office,

(B) are in accordance with § 553 of title 5,

(C) facilitate and expedite the processing of patent applications, particularly those which can be processed electronically,

(D) govern the recognition, conduct, and qualifications of agents, attorneys, or other persons representing applicants or others before the USPTO,

(E) recognize the public interest in ensuring that the patent system retain a reduced fee structure for small entities, and

(F) provide for the development of a performance-based process for managing that includes quantitative and qualitative measures, standards for evaluating cost-effectiveness, and consistency with principles of impartiality and competitiveness;

(3) the authority to acquire, construct, purchase, lease, hold, manage, operate, improve, alter and renovate any real, personal, or mixed property as it considers necessary to discharge its functions;

(4) the authority to make purchases of property, contracts for construction, maintenance, or management and operation of facilities, as well as to contract for and purchase printing services without regard to those federal laws which govern such proceedings;

(5) the authority to use services, equipment, personnel, facilities and equipment of other federal entities, with their consent and on a reimbursable basis;

(6) the authority to use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities or personnel of any State or local government agency or foreign patent or trademark office or international organization to perform functions on its behalf;

(7) the authority to retain and use all of its revenues and receipts;

(8) a requirement to advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

(9) a requirement to advise Federal departments and agencies of intellectual property policy in the United States and intellectual property protection abroad;

(10) a requirement to provide guidance regarding proposals offered by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

(11) the authority to conduct programs, studies or exchanges regarding domestic or international intellectual property law and the effectiveness of intellectual property protection domestically and abroad;

(12) a requirement to advise the Secretary of Commerce on any programs and studies relating to intellectual property policy that the USPTO may conduct or is authorized to conduct, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

(13) the authority to (A) coordinate with the Department of State in conducting programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations, and (B) transfer, with the concurrence of the Secretary of State, up to $100,000 in any year to the Department of State to pay an international intergovernmental organization for studies and programs advancing international cooperation concerning patents, trademarks, and other matters.

The specific powers set forth in new subsection (b) are clarified in new subsection (c). The special payments of paragraph (14)(B) are additional to other payments or contributions and are not subject to any limitation imposed by law. Nothing in subsection (b) derogates from the duties of the Secretary of State or the United States Trade Representative as set forth in section 141 of the Trade Act of 1974,[19] nor derogates from the duties and functions of the Register of Copyrights. The Director is required to consult with the Administrator of General Services when exercising authority under paragraphs (3) and (4)(A). Nothing in section 4712 may be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the USPTO. Finally, in exercising the powers and duties under this section, the Director shall consult with the Register of Copyright on all Copyright and related matters.

Sec. 4713. Organization and management

Section 4713 details the organization and management of the agency. The powers and duties of the USPTO shall be vested in the Under Secretary and Director, who shall be appointed by the President, by and with the consent of the Senate. The Under Secretary and Director performs two main functions. As Under Secretary of Commerce for Intellectual Property, she serves as the policy advisor to the Secretary of Commerce and the President on intellectual property issues. As Director, she is responsible for supervising the management and direction of the USPTO. She shall consult with the Public Advisory Committees, infra, on a regular basis regarding operations of the agency and before submitting budgetary proposals and fee or regulation changes. The Director shall take an oath of office. The President may remove the Director from office, but must provide notification to both houses of Congress.

The Secretary of Commerce, upon nomination of the Director, shall appoint a Deputy Director to act in the capacity of the Director if the Director is absent or incapacitated. The Secretary of Commerce shall also appoint two Commissioners, one for Patents, the other for Trademarks, without regard to chapters 33, 51, or 53 of title 5 of the U.S. Code. The Commissioners will have five-year terms and may be reappointed to new terms by the Secretary. Each Commissioner shall possess a demonstrated experience in patent and trademark law, respectively; and they shall be responsible for the management and direction of the patent and trademark operations, respectively. In addition to receiving a basic rate of compensation under the Senior Executive Service[20] and a locality payment,[21] the Commissioners may receive bonuses of up to 50 percent of their annual basic rate of compensation, not to exceed the salary of the Vice President, based on a performance evaluation by the Secretary, acting through the Director. The Secretary may remove Commissioners for misconduct or unsatisfactory performance. It is intended that the Commissioners will be non-political expert appointees, independently responsible for operations, subject to supervision by the Director.

The Director may appoint all other officers, agents, and employees as she sees fit, and define their responsibilities with equal discretion. The USPTO is specifically not subject to any administratively or statutorily imposed limits (full-time equivalents, or ''FTEs'') on positions or personnel.

The USPTO is charged with developing and submitting to Congress a proposal for an incentive program to retain senior (of the primary examiner grade or higher) patent and trademark examiners eligible for retirement for the sole purpose of training patent and trademark examiners.

The Director of the USPTO, in consultation with the Director of the Office of Personnel Management, is required to maintain

[19] 19 U.S.C. § 2171.
[20] 28 U.S.C. § 5382.
[21] 5 U.S.C. § 5304(h)(2)(C).

a program for identifying national security positions at the USPTO and for providing for appropriate security clearances for USPTO employees in order to maintain the secrecy of inventions as described in section 181 of the Patent Act and to prevent disclosure of sensitive and strategic information in the interest of national security.

The USPTO will be subject to all provisions of title 5 of the U.S. Code governing federal employees. All relevant labor agreements which are in effect the day before enactment of subtitle G shall be adopted by the agency. All USPTO employees as of the day before the effective date of subtitle G shall remain officers and employees of the agency without a break in service. Other personnel of the Department of Commerce shall be transferred to the USPTO only if necessary to carry out purposes of subtitle G of the bill and if a major function of their work is reimbursed by the USPTO, they spend at least half of their work time in support of the USPTO, or a transfer to the USPTO would be in the interest of the agency, as determined by the Secretary of Commerce in consultation with the Director.

On or after the effective date of the Act, the President shall appoint an individual to serve as Director until a Director qualifies under subsection (a). The persons serving as the Assistant Commissioner for Patents and the Assistant Commissioner for Trademarks on the day before the effective date of the Act may serve as the Commissioner for Patents and the Commissioner for Trademarks, respectively, until a respective Commissioner is appointed under subsection (b)(2).

Sec. 4714. Public Advisory Committees

Section 4714 provides a new section 5 of the Patent Act which establishes a Patent Public Advisory Committee and a Trademark Public Advisory Committee. Each Committee has nine voting members with three-year terms appointed by and serving at the pleasure of the Secretary of Commerce. Initial appointments will be made within three months of the effective date of the Act; and three of the initial appointees will receive one-year terms, three will receive two-year terms, and three will receive full terms. Vacancies will be filled within three months. The Secretary will also designate chairpersons for three-year terms.

The members of the Committees will be U.S. citizens and will be chosen to represent the interests of USPTO users. The Patent Public Advisory Committee shall have members who represent small and large entity applicants in the United States in proportion to the number of applications filed by the small and large entity applicants. In no case shall the small entity applicants be represented by less than 25 percent of the members of the Patent Public Advisory Committee, at least one of whom shall be an independent inventor. The members of both Committees shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation. The patent and trademark examiners' unions are entitled to have one representative on their respective Advisory Committee in a non-voting capacity.

The Committees meet at the call of the chair to consider an agenda established by the chair. Each Committee reviews the policies, goals, performance, budget, and user fees that bear on its area of concern and advises the Director on these matters. Within 60 days of the end of a fiscal year, the Committees prepare annual reports, transmit the reports to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Congress, and publish the reports in the Official Gazette of the USPTO.

Members of the Committees are compensated at a defined daily rate for meeting and travel days. Members are provided access to USPTO records and information other than personnel or other privileged information including that concerning patent applications. Members are special Government employees within the meaning of section 202 of title 18. The Federal Advisory Committee Act shall not apply to the Committees. Finally, section 4714 provides that Committee meetings shall be open to the public unless by a majority vote the Committee meets in executive session to consider personnel or other confidential information.

Sec. 4715. Conforming amendments

Technical conforming amendments to the Patent Act are set forth in section 4715.

Sec. 4716. Trademark Trial and Appeal Board

Section 4716 amends section 17 of the Trademark Act of 1946 by specifying that the Director shall give notice to all affected parties and shall direct a Trademark Trial and Appeal Board to determine the respective rights of those parties before it in a relevant proceeding. The section also invests the Director with the power of appointing administrative trademark judges to the Board. The Director, the Commissioner for Trademarks, the Commissioner for Patents, and the administrative trademark judges shall serve on the Board.

Sec. 4717. Board of Patent Appeals and Interferences

Under existing section 7 of the Patent Act, the Commissioner, Deputy Commissioner, Assistant Commissioners, and the examiners-in-chief constitute the Board of Patent Appeals and Interferences. Pursuant to section 4717 of subtitle G, the Board shall be comprised of the Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges. In addition, the existing statute allows each appellant a hearing before three members of the Board who are designated by the Director. Section 4717 empowers the Director with this authority.

Sec. 4718. Annual report of Director

No later than 180 days after the end of each fiscal year, the Director must provide a report to Congress detailing funds received and expended by the USPTO, the purposes for which the funds were spent, the quality and quantity of USPTO work, the nature of training provided to examiners, the evaluations of the Commissioners by the Secretary of Commerce, the Commissioners' compensation, and other information relating to the agency.

Sec. 4719. Suspension or exclusion from practice

Under existing section 32 of the Patent Act, the Commissioner (the Director pursuant to this Act) has the authority, after notice and a hearing, to suspend or exclude from further practice before the USPTO any person who is incompetent, disreputable, indulges in gross misconduct or fraud, or is noncompliant with USPTO regulations. Section 4719 permits the Director to designate an attorney who is an officer or employee of the USPTO to conduct a hearing under section 32.

Sec. 4720. Pay of Director and Deputy Director

Section 4720 replaces the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to receive pay at Level III of the Executive Schedule.[22] Section 4720 also establishes the pay of the Deputy Director at Level IV of the Executive Schedule.[23]

SUBCHAPTER B—EFFECTIVE DATE; TECHNICAL AMENDMENTS

Sec. 4731. Effective date

The effective date of subtitle G is four months after the date of enactment.

Sec. 4732. Technical and conforming amendments

Section 4732 sets forth numerous technical and conforming amendments related to subtitle G.

SUBCHAPTER C—MISCELLANEOUS PROVISIONS

Sec. 4741. References

Section 4741 clarifies that any reference to the transfer of a function from a department or office to the head of such department or office means the head of such department or office to which the function is transferred. In addition, references in other federal materials to the current Commissioner of Patents and Trademarks refer, upon enactment, to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. Similarly, references to the Assistant Commissioner for Patents are deemed to refer to the Commissioner for Patents and references to the Assistant Commissioner for Trademarks are deemed to refer to the Commissioner for Trademarks.

Sec. 4742. Exercise of authorities

Under section 4742, except as otherwise provided by law, a federal official to whom a function is transferred pursuant to subtitle G may exercise all authorities under any other provision of law that were available regarding the performance of that function to the official empowered to perform that function immediately before the date of the transfer of the function.

Sec. 4743. Savings provisions

Relevant legal documents that relate to a function which is transferred by subtitle G, and which are in effect on the date of such transfer, shall continue in effect according to their terms unless later modified or repealed in an appropriate manner. Applications or proceedings concerning any benefit, service, or license pending on the effective date of subtitle G before an office transferred shall not be affected, and shall continue thereafter, but may later be modified or repealed in the appropriate manner.

Subtitle G will not affect suits commenced before the effective date of passage. Suits or actions by or against the Department of Commerce, its employees, or the Secretary shall not abate by reason of enactment of subtitle G. Suits against a relevant government officer in her official capacity shall continue post enactment, and if a function has transferred to another officer by virtue of enactment, that other officer shall substitute as the defendant. Finally, administrative and judicial review procedures that apply to a function transferred shall apply to the head of the relevant federal agency and other officers to which the function is transferred.

Sec. 4744. Transfer of assets

Section 4744 states that all available personnel, property, records, and funds related to a function transferred pursuant to subtitle G shall be made available to the relevant official or head of the agency to which the function transfers at such time or times as the Director of the Office of Management and Budget (OMB) directs.

Sec. 4745. Delegation and assignment

Section 4745 allows an official to whom a function is transferred under subtitle G to

[22] 5 U.S.C. § 5314.

[23] 5 U.S.C. § 5315.

delegate that function to another officer or employee. The official to whom the function was originally transferred nonetheless remains responsible for the administration of the function.

Sec. 4746. Authority of Director of the Office of Management and Budget with respect to functions transferred

Pursuant to section 4746, if necessary the Director of OMB shall make any determination of the functions transferred pursuant to subtitle G.

Sec. 4747. Certain vesting of functions considered transfers

Section 4747 states that the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of that function.

Sec. 4748. Availability of existing funds

Under section 4748, existing appropriations and funds available for the performance of functions and other activities terminated pursuant to subtitle G shall remain available (for the duration of their period of availability) for necessary expenses in connection with the termination and resolution of such functions and activities, subject to the submission of a plan to House and Senate appropriators in accordance with Public Law 105–277 (Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, Fiscal Year 1999).

Sec. 4749. Definitions

''Function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

''Office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

SUBTITLE H—MISCELLANEOUS PATENT PROVISIONS

Subtitle H consists of seven largely-unrelated provisions that make needed clarifying and technical changes to the Patent Act. Subtitle H also authorizes a study. The provisions in Subtitle H take effect on the date of enactment except where stated otherwise in certain sections.

Sec. 4801. Provisional applications

Section 4801 amends section 111(b)(5) of the Patent Act by permitting a provisional application to be converted into a non-provisional application. The applicant must make a request within 12 months after the filing date of the provisional application for it to be converted into a non-provisional application.

Section 4801 also amends section 119(e) of the Patent Act by clarifying the treatment of a provisional application when its last day of pendency falls on a weekend or a Federal holiday, and by eliminating the requirement that a provisional application must be co-pending with a non-provisional application if the provisional application is to be relied on in any USPTO proceeding.

Sec. 4802. International applications

Section 4802 amends section 119(a) of the Patent Act to permit persons who filed an application for patent first in a WTO[24] member country to claim the right of priority in a subsequent patent application filed in the United States, even if such country does not yet afford similar privileges on the basis of applications filed in the United States. This amendment was made in conformity with the requirements of Articles 1 and 2 of the TRIPS Agreement.[25] These Articles require that WTO member countries apply the substantive provisions of the Paris Convention for the Protection of Industrial Property to other WTO member countries. As some WTO member countries are not yet members of the Paris Convention, and as developing countries are generally permitted periods of up to 5 years before complying with all provisions of the TRIPS Agreement, they are not required to extend the right of priority to other WTO member countries until such time.

Section 4802 also adds subsection (f) to section 119 of the Patent Act to provide for the right of priority in the United States on the basis of an application for a plant breeder's right first filed in a WTO member country or in a UPOV[26] Contracting Party. Many foreign countries provide only a sui generis system of protection for plant varieties. Because section 119 presently addresses only patents and inventors' certificates, applicants from those countries are technically unable to base a priority claim on a foreign application for a plant breeder's right when seeking plant patent or utility patent protection for a plant variety in this country.

Subsection (g) is added to section 119 to define the terms ''WTO member country'' and ''UPOV Contracting Party.''

Sec. 4803. Certain limitations on remedies for patent infringement not applicable

Section 4803 amends section 287(c)(4) of the Patent Act, which pertains to certain limitations on remedies for patent infringement, to make it applicable only to applications filed on or after September 30, 1996.

Sec. 4804. Electronic filing and publications

Section 4804 amends section 22 of the Patent Act to clarify that the USPTO may receive, disseminate, and maintain information in electronic form. Subsection (d)(2), however, prohibits the Director from ceasing to maintain paper or microform collections of U.S. patents, foreign patent documents, and U.S. trademark registrations, except pursuant to notice and opportunity for public comment and except the Director shall first submit a report to Congress detailing any such plan, including a description of the mechanisms in place to ensure the integrity of such collections and the data contained therein, as well as to ensure prompt public access to the most current available information, and certifying that the implementation of such plan will not negatively impact the public.

In addition, in the operation of its information dissemination programs and as the sole source of patent data, the USPTO should implement procedures that assure that bulk patent data are provided in such a manner that subscribers have the data in a manner that grants a sufficient amount of time for such subscribers to make the data available through their own systems at the same time the USPTO makes the data publicly available through its own Internet system.

Sec. 4805. Study and report on biologic deposits in support of biotechnology patents

Section 4805 charges the Comptroller General, in consultation with the Director of the USPTO, with conducting a study and submitting a report to Congress no later than six months after the date of enactment on the potential risks to the U.S. biotechnological industry regarding biological deposits in support of biotechnology patents. The study shall include: an examination of the risk of export and of transfers to third parties of biological deposits, and the risks posed by the 18-month publication requirement of subtitle E; an analysis of comparative legal and regulatory regimes; and any related recommendations. The USPTO is then charged with considering these recommendations when drafting regulations affecting biological deposits.

Sec. 4806. Prior invention

Section 4806 amends section 102(g) of the Patent Act to make clear that an inventor who is involved in a USPTO interference proceeding and establishes a date of invention under section 104 is subject to the requirements of section 102(g), including the requirement that the invention was not abandoned, suppressed, or concealed.

Sec. 4807. Prior art exclusion for certain commonly assigned patents

Section 4807 amends section 103 of the Patent Act, which sets forth patentability conditions related to the nonobviousness of subject matter. Section 103(c) of the current statute states that subject matter developed by another person which qualifies as prior art only under section 102(f) or (g) shall not preclude granting a patent on an invention with only obvious differences where the subject matter and claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The bill amends section 103(c) by adding a reference to section 102(e), which currently bars the granting of a patent if the invention was described in another patent granted on an application filed before the applicant's date of invention. The effect of the amendment is to allow an applicant to receive a patent when an invention with only obvious differences from the applicant's invention was described in a patent granted on an application filed before the applicant's invention, provided the inventions are commonly owned or subject to an obligation of assignment to the same person.

Sec. 4808. Exchange of copies of patents with foreign countries

Sec. 4808 amends section 12 of the Patent Act to prohibit the Director of the USPTO from entering into an agreement to exchange patent data with a foreign country that is not one of our NAFTA[27] or WTO trading partners, unless the Secretary of Commerce explicitly authorizes such an exchange.

TITLE V—MISCELLANEOUS PROVISIONS

Section 5001. Commission on Online Child Protection

Section 5001(a) provides that references contained in the amendments made by this title are to section 1405 of the Child Online Protection Act (47 U.S.C. 231 note).

Section 5001(b) amends the membership of the Commission on Online Child Protection to remove a requirement that a specific

[24] World Trade Organization. The agreement establishing the WTO is a multilateral instrument which creates a permanent organization to oversee the implementation of the Uruguay Round Agreements, including the GATT 1994, to provide a forum for multilateral trade negotiations and to administer dispute settlements (see note 3, supra). Staff of the House Comm. on Ways and Means, 104th Cong., 1st Sess., Overview and Compilation of U.S. Trade Statutes 1040 (Comm. Print 1995) [hereinafter, Overview and Compilation of U.S. Trade Statutes].

[25] Trade-Related Aspects of Intellectual Property Rights Agreement; i.e., that component of GATT which addresses intellectual property rights among the signatory members.

[26] International Convention for the Protection of New Varieties of Plants. UPOV is administered by the World Intellectual Property Organization (WIPO), which is charged with the administration of, and activities concerning revisions to, the international intellectual property treaties. UPOV has 40 members, and guarantees plant breeders national treatment and right of priority in other countries that are members of the treaty, along with certain other benefits. See M.A. Leaffer International Treaties on Intellectual Property at 47 (BNA, 2d ed. 1997).

[27] North American Free Trade Agreement, Pub. L. No. 103–182. The cornerstone of NAFTA is the phased-out elimination of all tariffs on trade between the U.S., Canada, and Mexico. Overview and Compilation of U.S. Trade Statutes 1999.

number of representatives come from designated sectors of private industry, as outlined in the Act. Section 5001(b) also provides that the members appointed to the Commission as of October 31, 1999, shall remain as members. Section 5001(b) also prevents the members of the Commission from being paid for their work on the Commission. This provision, however, does not preclude members from being reimbursed for legitimate costs associated with participating in the Commission (such as travel expenses).

Section 5001(c) extends the due date for the report of the Commission by one year.

Section 5001(d) establishes that the Commission's statutory authority will expire either (1) 30 days after the submission of the report required by the Act, or (2) November 30, 2000, whichever is earlier.

Section 5001(e) requires the Commission to commence its first meeting no later than March 31, 2000. Section 5001(e) also requires that the Commission elect, by a majority vote, a chairperson of the Commission not later than 30 days after holding its first meeting.

Section 5001(f) establishes minimum rules for the operations of the Commission, and also allows the Commission to adopt other rules as it deems necessary.

Section 5002. Privacy protection for donors to public broadcasting entities

This provision, which was added in Conference, protects the privacy of donors to public broadcasting entities.

Section 5003. Completion of biennial regulatory review

Section 5003 provides that, within 180 days after the date of enactment, the FCC will complete the biennial review required by section 202(h) of the Telecommunications Act of 1996. The Conferees expect that if the Commission concludes that it should retain any of the rules under the review unchanged, the Commission shall issue a report that includes a full justification of the basis for so finding.

Section 5004. Broadcasting entities

This provision, added in Conference, allows for a remittance of copyright damages for public broadcasting entities where they are not aware and have no reason to believe that their activities constituted violations of copyright law. This is currently the standard for nonprofit libraries, archives and educational institutions.

Section 5005. Technical amendments relating to vessel hull design protection

This section makes several amendments to chapter 13 of title 17 relating to design protection for vessel hulls. The sunset provision for chapter 13, enacted as part of the Digital Millennium Copyright Act, is removed so that chapter 13 is now a permanent chapter of title 17. The timing and number of joint studies to be done by the Copyright Office and the Patent and Trademark Offices of the effectiveness of chapter 13 are also amended by reducing the number of studies from two to one, and requiring that the one study not be submitted until November 1, 2003. Current law requires delivery of two studies within the first two years of chapter 13, which is unnecessary and an insufficient amount of time for the Copyright Office and the Patent and Trademark Office to accurately measure and assess the effectiveness of design protection within the marine industry.

The definition of a ''vessel'' in chapter 13 is amended to provide that in addition to being able to navigate on or through water, a vessel must be self-propelled and able to steer, and must be designed to carry at least one passenger. This clarifies Congress's intent not to allow design protection for such craft as barges, toy and remote controlled boas, inner tubes and surf boards.

Section 5006. Informal rulemaking of copyright determination

The Copyright Office has requested that Congress make a technical correction to section 1201(a)(1)(C) of title 17 by deleting the phrase ''on the record.'' The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the intent of Congress that the rulemaking proceeding which is to be conducted by the Copyright Office under this provision shall be an informal, rather than a formal, rulemaking proceeding. Accordingly, the phrase ''on the record'' is deleted as a technical correction to clarify the intent of Congress that the Copyright Office shall conduct the rulemaking under section 1201(a)(1)(C) as an informal rulemaking proceeding pursuant to section 553 of Title 5. The intent is to permit interested persons an opportunity to participate through the submission of written statements, oral presentations at one or more of the public hearings, and the submission of written responses to the submissions or presentations of others.

Section 5007. Service of process for surety corporations

This section allows surety corporations, like other corporations, to utilize approved state officials to receive service of process in any legal proceeding as an alternative to having a separate agent for service of process in each of the 94 federal judicial districts.

Section 5008. Low-power television

Section 5009, which can be cited as the Community Broadcasters Protection Act of 1999, will ensure that many communities across the nation will continue to have access to free, over-the-air low-power television (LPTV) stations, even as full-service television stations proceed with their conversion to digital format. In particular, Section 5009 requires the Federal Communications Commission (FCC) to provide certain qualifying LPTV stations with ''primary'' regulatory status, which in turn will enable these LPTV stations to attract the financing that is necessary to provide consumers with critical information and programming. At the same time, recognizing the importance of, and the engineering complexity in, the FCC's plan to convert full-service television stations to digital format, Section 5009 protects the ability of these stations to provide both digital and analog service throughout their existing service areas.

The FCC began awarding licenses for low-power television service in 1982. Low-power television service is a relatively inexpensive and flexible means of delivering programming tailored to the interests of viewers in small localized areas. It also ensures that spectrum allocated for broadcast television service is more efficiently used and promotes opportunities for entering the television broadcast business.

The FCC estimates that there are more than 2,000 licensed and operational LPTV stations, about 1,500 of which are operated in the continental United States by 700 different licensees in nearly 750 towns and cities.[28] LPTV stations serve rural and urban communities alike, although about two-thirds of all LPTV stations serve rural communities. LPTV stations in urban markets typically provide niche programming (e.g., bilingual or non-English programming) to under-served communities in large cities. In many rural markets, LPTV stations are consumers' only source of local, over-the-air programming. Owners of LPTV stations are diverse, including high school and college student populations, churches and religious groups, local governments, large and small businesses, and even individual citizens.

From an engineering standpoint, the term ''low-power television service'' means precisely what it implies, i.e., broadcast television service that operates at a lower level of power than full-service stations. Specifically, LPTV stations radiate 3 kilowatts of power for stations operating on the VHF band (i.e., channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (i.e., channels 14 through 69). By comparison, full-service stations on VHF channels radiate up to 316 kilowatts of power, and stations on UHF channels radiate up to 5,000 kilowatts of power. The reduced power levels that govern LPTV stations mean these stations serve a much smaller geographic region than do full-service stations. LPTV signals typically extend to a range of approximately 12 to 15 miles, whereas the originating signal of full-service stations often reach households 60 or 80 miles away.

Compared to its rules for full-service television station licensees, the FCC's rules for obtaining and operating an LPTV license are minimal. But in return for ease of licensing, LPTV stations must operate not only at reduced power levels but also as ''secondary'' licensees. This means LPTV stations are strictly prohibited from interfering with, and must accept signal interference from, ''primary'' licensees, such as full-service television stations. Moreover, LPTV stations must yield at any point in time to full-service stations that increase their power levels, as well as to new full-service stations.

The video programming marketplace is intensely competitive. The three largest broadcast networks that once dominated the market now face competition from several emerging broadcast and cable networks, cable systems, satellite television operators, wireless cable, and even the Internet. Low-power television plays a valuable, albeit modest, role in this market because it is capable of providing locally-originated programming to rural and urban communities that have either no access to local programming, or an over-abundance of national programming.

Low-power television's future, however, is uncertain. To begin with, LPTV's secondary regulatory status means a licensee can be summarily displaced by a full-service station that seeks to expand its own service area, or by a new full-service station seeking to enter the same market. This cloud of regulatory uncertainty necessarily affects the ability of LPTV stations to raise capital over the long-term, irrespective of an LPTV station's popularity among consumers.

The FCC's plan to convert full-service stations to digital substantially complicates LPTV stations' already uncertain future. In its digital television (DTV) proceeding, the FCC adopted a table of allotments for DTV service that provided a second channel for each existing full-service station to use for DTV service in making the transition from the existing analog technology to the new DTV technology. These second channels were provided to broadcasters on a temporary basis. At the end of the DTV transition, which is currently scheduled for December 31, 2006, they must relinquish one of their two channels.

In assigning DTV channels, the FCC maintained the secondary status of LPTV stations (as well as translators). In order to provide all full-service television stations with a second channel, the FCC was compelled to establish DTV allotments that will displace a number of LPTV stations, particularly in

[28] LPTV stations are distinct from so called ''translators.'' Whereas LPTV stations typically offer orginal programming, translators merely amplify or ''boost'' a full-service television station's signal into rural and mountainous regions adjacent to the station's market.

the larger urban market areas where the available spectrum is most congested.

The FCC's plan also provides for the recovery of a portion of the existing broadcast television spectrum so that it can be reallocated to new uses. Specifically, the FCC provided for immediate recovery of broadcast channels 60 through 69, and for recovery of broadcast channels 52 through 59 at the end of the DTV transition. As further required by Congress under the Balanced Budget Act of 1997,[29] the FCC has completed the reallocation of broadcast channels 60 through 69. Existing analog stations, including LPTV stations and a few DTV stations, are permitted to operate on these channels during the DTV transition. But at the end of the transition, all analog broadcast TV stations will have to cease operation, and the DTV stations on broadcast channels 52 through 69 will be relocated to new channels in the DTV core spectrum. As a result, the FCC estimates that the DTV transition will require about 35 to 45 percent of all LPTV stations to either change their operation or cease operation. Indeed, some full-service stations have already ''bumped'' several LPTV stations a number of times, at substantial cost to the LPTV station, with no guarantee that the LPTV station will be permitted to remain on its new channel in the long term.

The conferees, therefore, seek to provide some regulatory certainty for low-power television service. The conferees recognize that, because of emerging DTV service, not all LPTV stations can be guaranteed a certain future. Moreover, it is not clear that all LPTV stations should be given such a guarantee in light of the fact that many existing LPTV stations provide little or no original programming service.

Instead, the conferees seek to buttress the commercial viability of those LPTV stations which can demonstrate that they provide valuable programming to their communities. The House Committee on Commerce's record in considering this legislation reflects that there are a significant number of LPTV stations which broadcast programming—including locally originated programming—for a substantial portion of each day. From the consumers' perspective, these stations provide video programming that is functionally equivalent to the programming they view on full-service stations, as well as national and local cable networks. Consequently, these stations should be afforded roughly similar regulatory status. Section 5009, the Community Broadcasters Protection Act of 1999, will achieve that objective, and at the same time, protect the transition to digital.

Section 5009(a) provides that the short title of this section is the ''Community Broadcasters Protection Act of 1999.''

Section 5009(b) describes the Congress' findings on the importance of low-power television service. The Congress finds that LPTV stations have operated in a manner beneficial to the public, and in many instances, provide worthwhile and diverse services to communities that lack access to over-the-air programming. The Congress also finds, however, that LPTV stations' secondary regulatory status effectively blocks access to capital.

Section 5009(c) amends section 336 of the Communications Act of 1934[30] to require the FCC to create a new ''Class A'' license for certain qualifying LPTV stations. New paragraph (1)(A) in particular directs the FCC to prescribe rules within 120 days of enactment for the establishment of a new Class A television license that will be available to qualifying LPTV stations. The FCC's rules must ensure that a Class A licensee receives the same license terms and renewal standards as any full-service licensee, and that each Class A licensee is accorded primary regulatory status. Subparagraph (B) further requires the FCC, within 30 days of enactment, to send to each existing LPTV licensee a notice that describes the requirements for Class A designation. Within 60 days of enactment (or within 30 days of the FCC's notice), LPTV stations intending to seek Class A designation must submit a certification of eligibility to the FCC. Absent a material deficiency in an LPTV station's certification materials, the FCC is required under subparagraph (B) to grant a certification of eligibility.

Subparagraph (C) permits an LPTV station, within 30 days of the issuance of the rules required under subparagraph (A), to submit an application for Class A designation. The FCC must award a Class A license to a qualifying LPTV station within 30 days of receiving such application. Subparagraph (D) mandates that the FCC must act to preserve the signal contours of an LPTV station pending the final resolution of its application for a Class A license. In the event technical problems arise that require an engineering solution to a full-service station's allotted parameters or channel assignment in the DTV table of allotments, subparagraph (D) requires the FCC to make the necessary modifications to ensure that such full-service station can replicate or maximize its service area, as provided for in the FCC's rules.

With regard to maximization, a full-service digital television station must file an application for maximization or a notice of intent to seek such maximization by December 31, 1999, file a bona fide application for maximization by May 1, 2000, and also comply with all applicable FCC rules regarding the construction of digital television facilities. The term ''maximization'' is defined in paragraph 31 of the FCC's Sixth Report and Order as the process by which stations increase their service areas by operating with additional power or higher antennae than specified in the FCC's digital television table of allotments. Subparagraph (E) requires that a station must reduce the protected contour of its digital television service area in accordance with any modifications requested in future change applications. This provision is intended to ensure that stations indeed utilize the full amount of maximized spectrum for which they originally apply by the aforementioned deadlines.

Paragraph (2) lists the criteria an LPTV station must meet to qualify for a Class A license. Specifically, the LPTV station must: during the 90 days preceding the date of enactment, broadcast a minimum of 18 hours per day—including at least 3 hours per week of locally-originated programming—and also be in compliance with the FCC's rules on low-power television service; and from and after the date of its application for a Class A license, be in compliance with the FCC's rules for full-service television stations. In the alternative, the FCC may qualify an LPTV station as a Class A licensee if it determines that such qualification would serve the public interest, convenience, and necessity or for other reasons determined by the FCC.

Paragraph (3) provides that no LPTV station authorized as of the date of enactment may be disqualified for a Class A license based on common ownership with any other medium of mass communication.

Paragraph (4) makes clear that the FCC is not required to issue Class A LPTV stations (or translators) an additional license for advanced television services. The FCC, however, must accept applications for such services, provided the station will not cause interference to any other broadcast facility applied for, protected, permitted or authorized on the date of the filing of the application for advanced television services. Either the new license for advanced services or the original license must be forfeited at the end of the DTV transition. The licensee may elect to convert to advanced television services on its analog channel, but is not required to convert to digital format until the end of the DTV transition.

Paragraph (5) clarifies that nothing in new subsection 336(f) preempts, or otherwise affects, section 337 of the Communications Act of 1934.[31]

Paragraph (6) precludes the FCC from granting Class A licenses to LPTV stations operating between 698 megahertz (MHz) and 806 MHz (i.e., television broadcast channels 52 through 69). However, the FCC shall provide to LPTV stations assigned to, and temporarily operating on, those channels the opportunity to qualify for a Class A license. If a qualifying LPTV station is ultimately assigned a channel within the band of frequencies that will eventually comprise the ''core spectrum'' (i.e., television broadcast channels 2 through 51), then the FCC is required to issue a Class A license simultaneously. However, the FCC may not grant a Class A license to an LPTV station operating on a channel within the core spectrum that the FCC will identify within 180 days of enactment.

Finally, paragraph (7) provides that the FCC may not grant a Class A license (or a modification thereto) unless the requesting LPTV station demonstrates that it will not interfere with one of three types of radio-based services. First, under subparagraph (A), the LPTV station must show that it will not interfere with: (i) the predicted Grade B contour of any station transmitting in analog format; or (ii) the digital television service areas provided in the DTV table of allotments; or the digital television areas explicitly protected (as opposed to those areas that may be permitted) in the Commission's digital television regulations; or the digital television service areas of stations subsequently granted by the FCC prior to the filing of a Class A application; or lastly, stations seeking to maximize power under the FCC's rules (provided such stations are in compliance with the notification requirements under paragraph (1)).

Second, under subparagraph (B), the LPTV station must show that it will not interfere with any licensed, authorized or pending LPTV station or translator. And third, under subparagraph (C), the LPTV station must show that it will not interfere with other services (e.g., land mobile services) that also operate on television broadcast channels 14 through 20.

Finally, paragraph (8) establishes priority for those LPTVs that are displaced by an application filed under this section, in that these LPTVs have priority over other LPTVs in the assignment of available channels.

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committee to conference:

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of secs. 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by sec. 104 of the House bill.

RICK BOUCHER,

[29] See 47 U.S.C. § 337.

[30] 47 U.S.C. § 336.

[31] 47 U.S.C. § 337.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committee to conference:

HENRY HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS,
HOWARD L. BERMAN,
Managers on the Part of the House.

From the Committee on the Judiciary:

ORRIN HATCH,
STROM THURMOND,
MIKE DEWINE,
PATRICK LEAHY,
HERB KOHL,

From the Committee on Commerce, Science, and Transportation:

TED STEVENS,
FRITZ HOLLINGS,
Managers on the Part of the Senate.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

Mr. ARMEY. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 1554) to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite.

The Clerk read the title of the bill.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from North Carolina (Mr. COBLE) and the gentleman from Louisiana (Mr. TAUZIN) each control 10 minutes of debate on this motion. I further ask unanimous consent that the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. MARKEY) each control 10 minutes on this motion.

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

There was no objection.

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the conference report on H.R. 1554.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

□ 1815

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

Mr. Speaker, this conference report represents the combined hard work of both the House and the Senate, which is, of course, long overdue. I am pleased to report that through this hard work we are able to present the House an agreement on changes to telecommunications and copyright law in order to provide the American consumer with a stronger, more viable competitor to their incumbent cable operator.

This legislation will enact comprehensive reforms to the offering of satellite television service. I expect that the reforms contained in this bill will have a dramatic and beneficial effect on the multichannel video programming marketplace for years to come.

Consumers today expect more from their video program providers, whether it is a cable company, a satellite company, their broadcaster or other distributors, including the Internet. Consumers are savvy and they now expect and indeed demand their video program distributor to offer a wide variety of programming at reasonable cost with exceptional picture quality.

Today, there are some limitations on the ability of satellite carriers to meet consumer demands. These limitations put satellite carriers at a competitive disadvantage to incumbent cable providers. The main limitation on satellite providers is the inherent difficulty in providing local broadcast programming via satellite. Even though broadcasters are experiencing a dramatic reduction in their overall viewing audience compared to a few years ago, the overwhelming number of consumers still want local broadcast programming. Consumer surveys conclude that the lack of local broadcast programming is the number one reason some consumers are unwilling to subscribe to satellite service.

This conference report we are placing before the House today is designed to put satellite on a competitive, equal footing with cable. The bill provides for a compulsory license to retransmit local broadcast programming, and ensures carriage for local broadcast stations through retransmission consent/must-carry elections. The bill also provides consumers with the enjoyment of the benefit of distant signals.

This bill is not what all the industry desires. I want to make that clear. Parts of our industry do not like the bill. But the bottom line is it is good for consumers, and that is what really matters. For C-band users in my district and across America who have been calling, this bill grandfathers them. They are now legally eligible under this bill to receive signals they wrote and called about.

Let me tell my colleagues some of the other good consumer things it does. It directs the FCC to develop a new program signal standard; that is, defines a better picture quality instead of the 1950 quality we were used to looking at and that currently exists. It gives it a year to do so and to come back to Congress with this new picture quality standard.

It requires broadcasters to respond within 30 days to requests for waivers to receive distant signals, if they cannot get a good local signal.

It makes it easier for consumers to either get the waiver or to take an eligibility test for the distant signal. And, by the way, it ensures that the consumer will not be required to pay for this testing.

It directs the FCC to assist consumers in reviewing those eligibility disputes.

It makes a national PBS satellite feed available nationwide to all satellite consumers and at a reduced copyright rate.

It eliminates the 90-day waiting period for current cable subscribers who want to switch over to satellites.

It sets the copyright rate for local signals at zero, ensuring such signals will be available at consumer friendly rates.

It extends existing satellite copyright license for another 5 years, making sure they can get local signals.

It cuts the copyright rates for distant network signals by as much as 45 percent, making service to American consumers cheaper and more affordable.

It even allows owners of recreation vehicles and long-haul trucks to be eligible to receive distant network signals in their vehicles through their satellite service.

For those who have been concerned or angered by the Corporation for Public Broadcasting sharing their donor list, worry no more. The bill prohibits the receipt of Federal funds to any CPB broadcast entity who shares their donor list, plain and simple, with any political entity.

It also allows the contributor an added bonus. It allows an opt-out to make sure a name is not shared with anyone, whether affiliated or not affiliated.

For those in rural America, this bill provides incentives.

This is a good conference report. It combines the telecommunications provisions of H.R. 851, the Save Our Satellites Act of 1999, as reported, and the copyright provisions of H.R. 1027, the Satellite Television Improvement Act, as reported. The history of the bill can, therefore, be found in the applicable portions of the two reports filed by our two committees on these two bills.

I think it strikes the right balance, and I urge my colleagues' support.

Mr. Speaker, let me thank the hard work of a large group of Members who had a role in bringing this conference report together: The gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, and the gentleman from Michigan (Mr. DINGELL), the ranking member; the gentleman from Massachusetts (Mr. MARKEY), the subcommittee ranking member; the gentleman from Virginia (Mr. BOUCHER) from the Committee on Commerce; the gentleman from Illinois

(Mr. HYDE), the chairman of the Committee on the Judiciary; the gentleman from North Carolina (Mr. COBLE), the subcommittee chairman; the gentleman from Michigan (Mr. CONYERS), the ranking member; and the gentleman from California (Mr. BERMAN), the subcommittee ranking member; and the gentleman from Virginia (Mr. GOODLATTE) from the Committee on the Judiciary.

This is a bipartisan, bicommittee approach to a very important legislative bill. If there is one bill that has to get done before we go home from this session, this is the must-pass bill. I am pleased we were able to work together to bring this compromise to the House.

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

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

Mr. Speaker, in urban America, for a generation, we have not been able to take advantage of the satellite revolution. Yes, laws have been passed to make it possible for those that live in rural America, whether they have these 8-foot dishes in their back yard that would have required zoning variances in Boston, to be able to capture programming that benefits their consumers.

In 1992, the gentleman from Louisiana (Mr. TAUZIN) and I, out here on the floor, argued for better programming access so that satellite dishes would have better access to more programming. And that passed and actually gave birth to the 18-inch dish, this pizza-sized satellite dish, which would make it possible in urban America to put a satellite dish on one's home or in the back yard without having the neighbors protest in those densely populated communities.

However, the problem existed for all urban consumers because they could not get their local TV stations on their satellite dish. So those who came from Boston could not get channel 4, channel 5, channel 7, channel 56, channel 38, channel 25, where the Bruins and the Celtics and the Red Sox reside. So, as a result, consumers in Boston and other urban areas were forced to continue to use cable as the other mechanism by which they could have programming other than broadcast plus broadcast come into their home.

This bill changes that. This bill, for the first time, makes it possible for consumers in urban areas to really think seriously about getting a satellite dish, because for the first time they can get their local TV stations. They do not have to get up and start fooling with the rabbit ears on their TV set if they want to switch over from satellite to their local TV stations. They will not have to buy the local basic cable package if they want to get their local TV stations in concert with their satellite dish.

So this local-into-local service is going to begin the revolution which will make it possible for urban Americans to enjoy the same video enjoyment which rural Americans have had access to for a generation. I know I am planning on considering that purchase this Christmas.

I am, however, very disappointed that the conference committee did not accept the stronger House version of this provision that would have been more competitive, more pro-consumer, and would have ensured that we have telescoped the time frame fully to the point where every single urban American would have been able to consider immediately this new satellite service.

In general, the House bill was a better bill than what the Senate produced or what we wound up with here at the end of the process. Late changes in the conference are a step in the right direction, and it made the bill more acceptable. And I believe that it is worthy of support, even though I believe Congress is giving up an excellent opportunity to promote greater choice and price competition, price competition to cable.

I am hopeful that we can return in the next Congress and revisit these cable competition issues. Consumers deserve greater choice and they deserve greater efforts on the part of policymakers to make such choice ubiquitous and affordable.

The gentleman from Louisiana (Mr. TAUZIN) has gone through the litany of legislative saints who played a role in bringing the bill this far, and I want to compliment in turn each of those that the gentleman from Louisiana has mentioned. This is, although not perfect, a step forward in bringing this technological revolution to urban Americans, and I hope that it can find support here on the floor this evening.

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

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

Mr. Speaker, I am pleased to rise in strong support of H.R. 1554, the Intellectual Property and Communications Omnibus Reform Act of 1999. Countless hours have been dedicated to fashioning the satellite provisions of this legislation, balancing the interest of our constituents, intellectual property owners, satellite carriers, and the local broadcasters. I would be remiss if I did not take a moment to congratulate Members of both the House and the Senate for their hard work and dedication in bringing this legislation to fruition. Time does not permit me to call each Member by name, so I will just reiterate what my friend from Louisiana said and thank all of them who had a hand in contributing to the formulation of this package.

We have spent the past 3 years working on this legislation, and I can say without hesitation, Mr. Speaker, that this is, indeed, a very good bill. The legislation will have a tremendously beneficial effect on the citizens of this country, whether they are subscribers to satellite television or not.

We have all been concerned about a lack of competition in the multichannel television industry and what that means in terms of prices and services to our constituents. The bill gives the satellite industry a new copyright license with the ability to compete on a more even playing field, thereby giving consumers a chance.

I have received numerous letters and calls from my constituents, as I am sure many of my colleagues have from theirs, distressed over their satellite service. Many customers claim they leave the store complaining they cannot obtain their local stations through satellite service. Others feel betrayed when they have their distant network service cut off, having been sold an illegal package from the outset. Still others have been outraged at the cost they pay for the distant network signals. The time has come to address these concerns and pass legislation which makes the satellite industry more competitive with cable television. With competition comes better services at lower prices, which makes our constituents the real winners.

With this competition in mind, the legislation before us makes the following changes for the Satellite Home Viewers Act.

It reauthorizes the satellite copyright compulsory license for 5 years.

It allows new satellite customers who have received a network signal from a cable system within the past 3 months to sign up immediately for satellite service for those signals. This, as my colleagues know, is not allowed today.

It provides a discount for the copyright fees paid by the satellite carriers.

It allows satellite carriers to retransmit a local television station to households within that station's local market, just as cable does.

It protects existing subscribers from having their distant network services shut off at the end of the year, and protects all C-band customers from having their network service cut off entirely.

It allows satellite carriers to rebroadcast a national signal of the Public Broadcasting Service.

It provides an incentive for the development of a system to bring local signals to smaller, mostly rural areas and markets.

It empowers the FCC to conduct a rulemaking to determine the appropriate standards for satellite carriers concerning which customers should be allowed to receive distant network Signals.

□ 1830

The legislation before us today is a balanced approach, Mr. Speaker. It is not perfect, like most pieces of legislation, but it is a carefully balanced compromise. It removes many of the obstacles standing in the way of true competition yet does not reward those in the satellite industry for their obvious illegal activities concerning a distant network signal. The real winners, Mr. Speaker, are our constituents, the consumers.

I urge all Members to support this constituent-friendly legislation.

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

Mr. CONYERS. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, paying due deference to all of the saints responsible for the bill listed by the gentleman from Louisiana (Chairman TAUZIN), the gentleman from North Carolina (Chairman COBLE), the gentleman from Massachusetts (Mr. MARKEY), the ranking member, and our colleagues on both committees, the gentleman from California (Mr. BERMAN) and the gentleman from Virginia (Mr. BOUCHER), this conference report has finally reached the floor.

Some think it may be the signal that we will be released soon because this is a bill that had to go through. It represents the culmination of several years of debate on intellectual property issues that affect both consumers, broadcasters, satellite companies, domain name holders, and patent holders.

The most important change the bill makes is allowing satellite carriers to offer local-to-local service. As we know, under current law, consumers may not receive local network signals along satellite services unless they are in a service area where local reception is blocked.

By eliminating this restriction, we will allow the satellite companies to provide more viable competition with cable, which will enhance consumer choice and services. This is good.

At the same time we are eliminating the barriers to entry by satellite, the bill also helps ensure that there is a level playing field between cable and satellite. This is good.

Under current law, cable is subject to legal must-carry requirements, which ensure that they carry all local service channels. This bill provides for a mechanism for importing this requirement on satellite companies, which again will serve to broaden the choices consumers have in programming.

Another important reform included in the bill includes loan guarantees provided for companies that want to retransmit local signals to rural markets. Far too much of the information revolution has passed by rural America. On our committee, the gentleman from Virginia (Mr. BOUCHER) has done an excellent job in this regard and has helped the bill immeasurably.

Telecommunication firms have argued that it is not economically feasible to offer satellite and other advanced services in these areas. We have done differently. The conference report will help to ensure that the capital exists to offer rural America access to their local signals.

I urge support of the measure before us.

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

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

Mr. Speaker, I rise for the purpose of engaging in a colloquy with my friend the gentleman from North Carolina (Mr. COBLE).

Mr. Speaker, a provision in this legislation provides that Internet service providers may not avail themselves of the compulsory license for terrestial systems under Section 111 of the Copyright Act and satellite systems under Sections 119 and 122.

I, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY) believe that a wholesale exclusion from the compulsory license based solely on the technology used by potential licensees to retransmit the program may be inappropriate.

If on-line service providers can meet the underlying requirements of the compulsory license, they should not be discriminated against simply because of the medium used.

It is my understanding that the gentleman is committed to working with me, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY) in addressing this concern this session.

Mr. Speaker, I ask the gentleman from North Carolina (Mr. COBLE), is that correct?

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

Mr. TAUZIN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Speaker, I would say that the gentleman from California (Mr. BERMAN), the gentleman from Michigan (Mr. CONYERS), and the gentleman from Illinois (Mr. HYDE) and are in agreement to work to address this matter.

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

Mr. TAUZIN. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, without conceding any of the assumptions in the preface to the question of the gentleman from Louisiana (Mr. TAUZIN), I would be enthusiastic about working with the gentleman on this issue.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN.)

Mrs. CUBIN. Mr. Speaker, I would like to start by thanking the gentleman from Virginia (Chairman BLILEY), the chairman of the Committee on Commerce, for his remarkable work in getting this very important piece of legislation on the House floor tonight.

I am particularly pleased with the bill's rural provisions, which include a fiscally responsible plan that will ensure that all customers, including medium size and small markets, will have access to local broadcast signals by way of satellite.

The conference report includes a $1.25 billion Agriculture Department loan guarantee to help support the launch of satellite systems dedicated to provide television service to hundreds of rural and underserved markets.

Without this plan, only the largest television markets in America will be able to receive local-into-local service which is authorized by this legislation. The cities that will be served will only be those with millions-of-television households.

Even under the most optimistic local-to-local plan, it will require 2 to 3 years to put into service, and then it will only be available in about 70 of the 210 television markets in the United States.

The two largest television markets in Wyoming are Casper and Cheyenne. They both rank under 177. They would probably never receive local-into-local service without the loan guarantee provisions that are included in this bill.

Once again, I want to thank the gentleman from Virginia (Chairman BLILEY), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from North Carolina (Chairman COBLE), and the gentleman from Virginia (Mr. BOUCHER) for all of their hard work in getting this bill to the floor in a timely manner.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. CONYERS. Mr. Speaker, I also yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The gentleman from Virginia (Mr. BOUCHER) is recognized for 4 minutes.

Mr. BOUCHER. Mr. Speaker, I want to thank my friends and colleagues from Massachusetts and from Michigan for yielding me this time.

I rise in support of the conference agreement and offer congratulations to my fellow conferees for performing well the challenging task of balancing a range of complex policy choices.

The new ''satellite home viewer act'' will be good for consumers. It assures that millions of rural Americans who live a long way from local TV stations can continue to receive network signals delivered by satellite. It fully authorizes an entirely new satellite service for the benefit of TV viewers.

For the first time, satellite companies will be able to offer not just national programs but also local television stations. They will up-link local stations to the satellite and spot beam those stations back into the markets of their origination.

With this advance, satellite companies will become completely viable competitors for cable TV companies and will offer all of the choices including local programs that cable companies offer at the present time.

This advance will benefit consumers by giving them a viable alternative to cable for multi-channel video services. It will serve as a competitive check on cable rates, benefiting even those viewers who continue to subscribe to cable television. And it will assure local broadcasters that, for the first time, they can reliably reach every viewer within their market.

I particularly want to thank the conferees in the House and in the other

body for accepting a proposal that I made in partnership with my colleague, the gentleman from Virginia (Mr. GOODLATTE), to facilitate the offering of the new local-into-local satellite service, not just in the largest cities but in all 211 local television markets nationwide.

The commercial satellite companies have announced their intention to offer the local-into-local service only in the largest 67 cities.

The provision that the gentleman from Virginia (Mr. GOODLATTE) and I sponsored, which is a part of this conference report, will enable the U.S. Department of Agriculture to provide a loan guarantee in the amount of $1.25 billion to make feasible the construction, launch, and operation of enough satellites to provide the local-into-local service in all television markets nationwide, including the medium sized and the smaller markets that the commercial companies do not intend to serve.

I thank my colleague, the gentleman from Virginia (Mr. GOODLATTE), for his excellent efforts; and I thank other members of the conference for accepting this proposal. The interest of rural viewers will be well served by this advance, as they will by the adoption of this conference report. I am pleased to encourage its adoption by the House.

Mr. COBLE. Mr. Speaker, may I ask the Chair how much time I have remaining.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. COBLE) has 6 minutes remaining. The gentleman from Louisiana (Mr. TAUZIN) has 30 seconds remaining. The gentleman from Michigan (Mr. CONYERS) has 5½ minutes remaining. The gentleman from Massachusetts (Mr. MARKEY) has 4 minutes remaining.

Mr. COBLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Roanoke Valley, Virginia (Mr. GOODLATTE).

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me the time, and I congratulate him and the gentleman from Illinois (Chairman HYDE) of the Committee on the Judiciary for their outstanding work on this.

This is truly a bipartisan effort. I want to thank the gentleman from Michigan (Mr. CONYERS), the ranking member, and the gentleman from California (Mr. BERMAN) as well and the Committee on Commerce. This is a cooperative venture between two committees that have worked out this very fine legislation.

But I, most especially, want to thank the gentleman from Virginia (Mr. BOUCHER), my colleague, for his very fine leadership on the rural local-into-local provisions in this bill. Because without those provisions, this bill would not do very much for those many, many tens of millions of Americans living in those smaller markets in this country.

And so it is truly exciting to have the opportunity to now know that in the near future my constituents who are having a problem being able to get their local news, weather, sports, emergency information, community information broadcast to them by satellite so they have a competitive alternative to cable, or in the rural areas the only alternative. And to be able to get that local broadcast is truly an exciting part of this bill.

But there are many other outstanding provisions, as well. That competition I just referred to that we will get now between satellite and cable in urban areas is a great development. The legislation in this bill dealing with cyber-squatting and cracking down on those who would steal other people's trademark names, as well as the patent provisions in this bill, are also all worth noting.

Now, one provision has been raised that is of concern to the on-line service provider industry, and I want to make it clear that I strongly support preserving the current law on this issue. On-line service providers should not be precluded from competing with satellite and cable providers if they qualify for the same license.

Especially important is this issue for people in rural areas to be able to get the choice of where they will get their programs, and Congress should be conscious of the unintended consequences of excluding an exciting new medium and the unintended consequences of excluding that medium.

So I intend to work with the other Members who have worked on this legislation to be sure that we find another vehicle to address those concerns before the House adjourns for the year.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. BERMAN), the ranking member on our subcommittee; and I thank him for his excellent work.

Mr. BERMAN. Mr. Speaker, I rise in support of H.R. 1554, a bill which is truly enormous in its scope.

Its central purpose, of course, is to afford more American consumers the opportunity to view their own local stations by satellite, a sensible goal that I strongly endorse.

At the same time that I endorse the competitive parity we seek to achieve in this legislation between the satellite and cable industries, it is certainly the case that this bill does so at the expense of certain important principles.

I have made no secret in the past of my distaste for compulsory licenses. Yet this bill extends such a license, indeed one that has been massively violated by its beneficiaries, for another 5 years.

I might just add at this particular point and for the comments of the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Louisiana (Mr. TAUZIN) that there is some thought that, without hearings, without consideration, we are going to take the copyrighted content of our creative communities around this country and around this world and all of a sudden, by legal brief or by interpretation of a definition enacted when no one had any idea about this dreaming technology, assume that now there is compulsory license for Internet service providers without hearings, without discussion, without consideration.

□ 1845

I would like to hear the compelling case for that particular move before this House is asked to consider it.

On another point, I strongly supported the marketplace approach taken in the 1994 Satellite Home Viewer Act amendments; namely, that the royalty fees paid by satellite services for programming obtained under the satellite compulsory license should be set at fair market value. Yet this conference report discounts the rate set by the Copyright Arbitration Royalty Panel and upheld by the U.S. Court of Appeals for the District of Columbia.

Finally and unfortunately in the last few days of the conference committee deliberations, a provision was added, which I strongly oppose, which delays for 6 months the obligation of multichannel video programming distributors to obtain consent for the retransmission of the signals of television broadcast stations in their local markets.

I look at these features of the conference report and I am struck by the degree to which this Congress, indeed this Republican majority, is imposing artificial, government-contrived impediments to the ability of the marketplace to determine the terms for delivery of broadcast signals.

Notwithstanding all of that, I am a supporter of this conference report, because it does provide the competition by satellite to cable that is needed through the delivery of local-to-local, through the addition of provisions fought for by the gentleman from Virginia. And if the urban legislators who once this passes have multifaceted choices for different media, in regular, free, on-the-air television, cable and satellite, are not willing to help the people in rural areas at least have some competitive alternative, it would be a very sad day.

I endorse the provisions of this bill.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, up in Boston, there is one man whom we revere whose philosophy is instilled in each of us. His philosophy was, ''All politics is local.'' His name was Tip O'Neill. Tonight he would be saying, ''All politics is local-into-local,'' making sure you can take your local TV stations, beam them up to a satellite and bring them right back down, watch the Red Sox, watch the Bruins, watch the Celtics, on their local TV stations. Then you can disconnect your cable company if you like. If they are not coming soon enough to satisfy you and there is bad service, if they are putting up the rates too high for the limited number of

channels they are providing you, this option now becomes one that you can consider. My father used to say to me, ''Eddie, I'd disconnect cable in a second, but it would just be a pain to have to get up and flick the switch and then try to move the rabbit ears.''

Mr. Speaker, tonight for my father and for millions like him across the country, this gives them the opportunity to begin to make that decision.

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

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. ROGAN), a member of the Committee on the Judiciary.

Mr. ROGAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to join my colleagues tonight in support of the conference agreement. This legislation will significantly increase competition in the satellite broadcast market and provide consumers across the United States with cutting edge services.

In addition, the bill offered earlier by my good friend from Virginia and I is now incorporated as title III in this conference report. Our legislation, the Cyberpiracy Prevention Act of 1999, will address the issue of cyberpiracy.

Cyberpiracy is the deceptive practice of registering an Internet domain name using the name of an existing entity or individual for the purpose of commercial gain. This bill prevents cybersquatting when a trademark, service mark, famous name or any personal name is involved. Typically, cybersquatters act against registered trademarks in a variety of ways.

Mr. Speaker, this bill as amended will protect the interests of the public mark owners and famous individuals from these fraudulent practices on the Internet. This bill provides legal recourse for those who have been exploited by cybersquatters, and extends current trademark protections to the world of e-commerce.

I encourage my colleagues to support this important measure.

Mr. Speaker, if I may, I want to thank my good friend, my subcommittee chairman, for his leadership on this. I want to commend the leadership of my friend from Virginia who has just done exceptional work. I want to commend the staffs of both parties and also the distinguished Judiciary Committee chairman in the other body for his leadership. This is a good measure. I look forward to its passage.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I am so pleased to support this measure before us this evening, because it is going to help me answer a question that my constituents have been asking over and over again, which is why would Congress prevent local channels from being received by satellite dishes? I can see no reason for controlling competition in the way that we have done so. This measure will help bring competition to TV transmission.

There is a further issue that I think is enormously important, and that is the inclusion of patent reform. This Congress has been on record several times urging and hoping that we could bring American patent law into the modern era. Although we are making sausage here tonight, maybe this by way of process is not pristine, the absolute end result of a good patent reform bill is well worth our support, and I am grateful that it has been included.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report. The winner in this is the consumer.

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

It has been a long road, Mr. Speaker, to reach this point. We began in our committee probably 25 years ago with the cable revolution forcing telephone companies and electric companies to allow cable companies to put their wires on their poles. We had to pass laws forcing then as the cable companies got very large to force them to sell their programming to satellite companies so that the satellite companies would be able to compete against cable companies.

Each one of these steps is part of a government plan, part of a bipartisan, Federal Government plan to add more competition to the marketplace. If it was left just to the incumbent companies, we would never have any additions to the video revolution. We would never have reached the day here where we can debate whether or not streaming video, America OnLine, should be part of this debate. It is only because we have made these tough government decisions to break down barriers to entry to new technologies that we are able to debate this tonight.

For millions of Americans for the first time beginning this Christmas, they may have the opportunity of deciding just to disconnect their cable and to get their local television stations for the first time from a new place, a satellite dish, and to also have at the same time the freedom of having the couple of hundred channels that satellite offers to them. That is what makes me so excited about this bill. It no longer will be a rural revolution, it now becomes officially an urban revolution.

Again, not all of the provisions that I wanted are in this bill. I do not think we are going to see the price competition which would have been made possible if we had made some tougher decisions, but I do think we are tonight taking that first step towards making urban Americans equal citizens with rural Americans in this satellite revolution.

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

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

(Mr. WALDEN of Oregon asked and was given permission to revise and extend his remarks.)

Mr. WALDEN of Oregon. Mr. Speaker, I rise in support of the conference report and to show my support for this legislation, especially with the local-into-local commitment for our rural areas.

Mr. Speaker, I rise in support of the passage of this conference report.

On behalf of the thousands of people in rural Oregon whose only clear reception to the world of television is via satellite, passage of this measure is a welcome relief.

I would also like to commend the Committee for providing the resources to help bring local stations to rural areas. It would be unfair for the viewer in the smallest of TV markets if they were left behind while the satellite companies provide local to local service in only the largest and most lucrative markets. People in rural Oregon deserve to be able to watch the local news, weather and community service programming, provided by their community broadcasters.

This bill is a good piece of legislation that will provide new alternatives, and more competition in the market place. It deserves our support tonight in the House.

Mr. COBLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in favor of the Conference Report to H.R. 1554 and its positive impact on consumers in the 6th District of Florida. This legislation restores television signals to those consumers who truly cannot receive their local television broadcast stations while also laying a framework for establishing local-into-local signals. And in smaller, more rural markets such as mine, it establishes loan guarantees to provide service in such areas.

But I also support this Conference Report for the privacy protections it extends to donors of public broadcasting entities. As everyone knows by now, the public broadcasting stations engaged in swapping their donor lists with Democratic party. As a result, I introduced H.R. 2791, to prohibit public broadcasting stations receiving any funding through the Corporation for Public Broadcasting from making available any lists of their financial donors.

Though the Commerce Committee did not have time to mark-up my legislation, this Conference Report extends the protections of my legislation to donors of public broadcasting entities by prohibiting any funds to a public station which swaps lists with a political entity or disclosed donor names without their consent.

I encourage my colleagues to vote in favor of the report.

Mr. COBLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. Rohrabacher).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of at least a provision, if not the entire conference report, because I just would like to talk

about a provision that I know about and where I have a little bit of expertise, and that has to do with the American patent system.

Part of this conference report has a very strong patent reform provision that has been the subject of much debate and hard work in this body for the last 5 years. It is a victory for the American inventor. We have provisions in this bill that protect American inventors from prepublication which was a major issue of contention. It protects the patent term. And it ensures a strong patent system for the money that is going in there. It is going to be kept in the patent system to strengthen it and educate the patent examiners and to make sure that America remains the number one technological power on this planet from the bottom up. There is nothing we can do from the top down when it comes to the great inventiveness of the American people.

This bill contains provisions, as I say, which we worked so hard on. A great victory for the American inventors is contained in this conference report.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I want to observe the pro-consumer part of this bill a little more carefully, because this is generally a pro-consumer bill. Could we have provided greater reforms in the area of retransmission consent? I think so. Currently, large broadcasters can enter into sweetheart deals with large cable and satellite companies. That is why I supported including strong anti-discrimination language which would have allowed new firms to more fairly compete against the entrenched monopolies. Although the final language prevents exclusive contracts, it could have been tougher. It could have done more to prevent discriminatory contracts. I think we will have to continue to watch for that.

I am also a strong supporter of those provisions dealing with patent reform and cybersquatting. The patent provisions will help prevent the deceptive practices of submarine patents, extend the length of patent terms and provide for a more streamlined patent office and patent examination system. The Patent and Trademark Office is a critical cog in our high-tech economy, and the changes will help keep our country at the forefront of innovation. The cybersquatting changes will help prevent abusive registration of Internet domain names and ensure that trademark rights are respected in cyberspace.

This is a good conference report. I encourage its support by all of the Members.

Mr. COBLE. Mr. Speaker, I yield myself the balance of my time.

This is the second omnibus copyright bill in as many Congresses, Mr. Speaker, revealing our commitment to address the challenges of the digital age as it involves the most important element, content. Without music, movies, software and books, all the machines in the world, Mr. Speaker, are meaningless. I am proud with my colleagues here today to stand up to protect property on the Internet, to help owners and consumers. This bill does that. This bill balances the interests involved. I urge support.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

I want to conclude by congratulating my good friend the gentleman from Louisiana (Mr. TAUZIN) for his excellent work on this bill. We have worked many years on these issues.

I want to thank the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL) who wanted to be here, he is in another conference working on a health care-related issue right now; the gentleman from Michigan (Mr. CONYERS), the gentleman from California (Mr. BERMAN), the gentleman from North Carolina (Mr. COBLE), the gentleman from Virginia (Mr. BOUCHER), each one a saint, but I especially want to identify myself with the comments again of the gentleman from Michigan (Mr. CONYERS). It would have been far better if we had built in language which would have ensured that nondiscriminatory conduct against certain satellite companies could not have been engaged in. It would have been preferable if we had dealt with that issue today. Instead, our responsibility will be to monitor very closely marketplace activities and to identify wherever it occurs actions that are meant to harm those who seek to compete in this new marketplace.

Let us hope that this bill will be a success. I think each of us hopes that the revolution begins tonight.

I want to start off by commending Chairman BLILEY, Mr. DINGELL, and Chairman TAUZIN, as well as Chairman HYDE, Mr. CONYERS, Chairman COBLE, and Mr. BERMAN from the Judiciary Committee, for bringing back to the floor today the conference report on the Satellite Home Viewer Act (SHVA). And I want to thank my colleagues for their leadership and for the excellent work they have done in helping to bring a bipartisan, consensus approach to these complicated issues.

The impetus for Congress' activity on the Satellite Home Viewer Act this year is twofold. First, having deregulated cable programming services effective in April of this year, many members of this body sought ways in which to foster greater competition to incumbent cable systems. Second, lawmakers were responding to a series of court decisions that found that people were illegally selling distant network signals to consumers in violation of the Satellite Home Viewer Act. In proceeding legislatively, we have tried to remain true to two important communications values, namely localism and universal service. We have tried to balance these values even as we factor in the innovative changes that have occurred in satellite technology, as well as the dire need for greater competition to incumbent cable companies in the video marketplace.

In the Commerce Committee, I offered an amendment to accelerate the development of so-called ''local-to-local'' service. The local-to-local amendment that I offered was designed to help accelerate competition to incumbent cable systems by authorizing a service that would permit satellite carriers the ability to provide consumers a video service that was more comparable to cable. There's no question that many consumers today who would otherwise have switched to satellite TV do not do so because they cannot effectively receive their local channels.

This service avails a consumer of the opportunity to receive his or her local TV stations by way of satellite. This promotes our policy of localism and makes satellite service more attractive to consumers. I believe that local-to-local is the future of satellite broadcasting and that it will make satellite service more comparable to cable and I am very pleased that it is included in the legislation before the House.

At a time when cable programming has been deregulated, we must work quickly to provide incentives for greater competition to incumbent cable companies and we must do so in a way that fully recognizes the market power that the cable industry continues to wield in the marketplace.

I am very disappointed that the Conference Committee did not accept the stronger House version of this provision that would have been more competitive and more pro-consumer. In general, the House bill was a better bill than what the Senate produced, or what we have wound up with here at the end of the process. Late changes to the bill in the conference are a step in the right direction and have made the bill more acceptable. I believe that it is worthy of support, but we still have much work to do in order to promote greater choice and price competition to cable.

I am hopeful that we can return as a Congress and revisit these cable competition issues. Consumers deserve greater choice and they deserve greater efforts on the part of policymakers to make such choice ubiquitous and affordable.

Again, I want to commend Chairman BLILEY, and Chairman HYDE for bringing this bill to the floor and for their leadership in working with Mr. DINGELL, Mr. CONYERS, Chairman TAUZIN, Chairman COBLE, and myself as well as others on the Committee in attempting to fashion a consensus, bipartisan approach to this difficult issue.

I continue to believe that newly-granted retransmission consent rights for both local and distant signals must have appropriate safeguards against potential anticompetitive activity stemming from the cable industry's continued market dominance. Broadcasters have a non-marketplace safeguard built into the bill in the form of must-carry. Cable competitors must have similar protection against potential anticompetitive action because of the dominant position that incumbent cable companies are able to exercise. I hope that the FCC can clarify language in the bill as it is intended to serve consumers and our competition policy where it addresses the obligation for ''good faith'' negotiations.

Local-to-local service however, will not reach many markets initially. And even the most robust business plans on the drawing board today do not envision extending local-to-local beyond the top 70 markets or so. For that reason, we still need to address issues related to how we can supplement satellite service with the delivery of local TV channels

in those smaller, rural markets with other wireless cable, terrestrial wireless, or cable broadcast-only basic tier availability.

Facilitating deployment of new technologies, such as wireless terrestrial service, could also advance the important priority of stimulating direct competitors to cable in all markets. Strong price and quality competition to incumbent cable systems is still woefully absent in today's marketplace. There are, for example, several companies poised to offer competition to cable through wireless services. One of these potential cable rivals is Northpoint Technology, which could provide cable services using existing equipment.

Finally, the conference agreement requires the Commission to conduct a number of rulemaking proceedings related to the rights of television broadcast stations, such as network nonduplication. These rulemaking procedures shall apply to commercial and noncommercial televisions stations.

Again, my congratulations to the Commerce and Judiciary Committee conferees. I urge support of the bill and I urge members who support more effective competition to incumbent cable systems to support strong rules at the FCC clarifying ''good faith'' negotiating obligations on those entities offering retransmission consent of their station's signal. Phone companies, cable overbuilders, and satellite operators need clear, pro-competition rules at the FCC and I believe the Commission ought to do this on an expedited basis. There's no reason to delay. I again urge support of the bill.

□ 1900

Mr. TAUZIN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, in closing, let me say that this has been a long battle. I say congratulations to my friend, the gentleman from Massachusetts (Mr. MARKEY).

Today, we see real competition for cable. We know that when cable faces real competition, rates can fall as much as 25 percent. Today, real competition; tomorrow, real choice. This is a victory for consumers.

For those of my colleagues who want to read the bill, it is on the web site at http://clerkweb.house.gov. My colleagues can pick it up on the web. More importantly, Americans will soon be able to pick up local television off of their satellite.

Mr. OXLEY. Mr. Speaker, Satellite television has emerged in recent years as a major competitor in the multichannel video marketplace. This is especially so in suburban and rural regions such as Ohio's Fourth Congressional District. It is a development which has been welcomed by consumers and policy makers alike.

The measure before us permits satellite television providers to deliver local broadcast channels to local viewers, bringing local news, sports, and weather to satellite customers. This will provide a major boost to satellite as a competitor to cable television.

The legislation will provide greater consumer choice and enhanced price competition for multichannel video services.

The bill also grandfathers DBS subscribers outside of the metropolitan Grade A contour who have had or are soon to have their distant network signals terminated. In addition, all owners of the larger, C-Band dishes are grandfathered. I strongly support the grandfather provisions as a matter of basic fairness for consumers.

In addition, the measure includes an amendment I offered in conference committee to protect the privacy of donors to public broadcasting stations. As members know, a scandal erupted this summer when it was discovered that PBS and NPR stations around the nation had been swapping lists of their donors with the Democrat National Committee and other partisan entities.

The amendment prohibits the sharing of lists with political committees and campaigns. In addition, my amendment requires that donors to public broadcasting stations be given the opportunity to opt-out of any sharing of their personal data. The third-party opt-out is similar to the privacy amendment which I added to S. 900, Financial Services Modernization. I'm pleased that the conference committee has taken this step to protect the privacy of public broadcasting contributors.

Mr Speaker, I urge support for the conference report.

Mrs. CAPPS. Mr. Speaker, I rise in strong support of the satellite television conference report.

I am very pleased we are able to consider this important legislation that will enable satellite television users to receive network signals. This bill represents an important victory for consumers across the country.

My constituents in Santa Barbara and San Luis Obispo counties in California have been heavily affected by this issue. My district is a rural, mountainous area, and thousands of people have turned to satellites as the only way to receive television signals. These people bought their satellites with the understanding that they would be able to receive national network stations. I am pleased that this bill will enable them to continue to do so.

It is clear that satellite users expect—and deserve—access to all television signals. And most importantly, they should be able to receive local network stations. Local TV is in many ways our modern town square. Our constituents need local TV stations for complete and up-to-date news, weather, and information about community events. The local-into-local satellite broadcasting provision, which enables households to receive their local stations through their satellite package, is perhaps the most important in the bill.

As this bill made its way through the legislative process, I was concerned that limited satellite technological capacity could provide local-into-local coverage for only the largest media markets. This would mean that Central Coast citizens would not be able to get their local TV stations through their satellites since we live in a small, rural market. I brought these concerns to the attention of the conferees and am pleased that the bill now creates a loan guarantee program to encourage satellite service in rural areas and smaller markets. This provision should ensure that all consumers will have access to local television through their satellite dish.

I urge my colleagues to support this bill and restore fairness for satellite viewing customers.

Mr. DINGELL. Mr. Speaker, I rise in support of the Conference Report on H.R. 1554.

Consumers will greatly benefit from the bill. They will finally be legally entitled to receive their local broadcast stations when they subscribe to satellite television service. No longer will consumers be required to fool with rabbit ears, or erect a huge antenna on their rooftop, to receive their local network stations. The satellite dish they buy this holiday season will be able to provide them with a one-stop source for all their television programming.

But the bill helps consumers in another very important way. Cable television prices were deregulated on April 1st of this year, despite the fact that effective competition to these systems was practically non-existent at that time. This bill now will allow satellite companies to compete more effectively with cable systems, and provide a real-market check on the rates they charge consumers. If cable rates continue to climb, as they have done for the past several years, consumers will be able to fight back—they'll now have a real choice for their video programming service.

Despite these benefits, it is true that in some of the smaller markets around the country, satellite companies will not provide local broadcast signals right away. This is due to technical capacity limitations that currently exist. In those smaller markets, consumers who subscribe to satellite TV will still be required to get their local stations over-the-air through the use of a conventional antenna.

This raises an important question that is the subject of considerable debate. The question is whether these consumers can actually receive an acceptable picture over-the-air, through the use of an antenna. The House bill would have given the Federal Communications Commission authority to change the rules governing which consumers receive an acceptable picture, and which do not. Those who do not would be allowed to subscribe to out-of-market, or ''distant'' network signals as part of their satellite television service.

Unfortunately, the House position was not adopted by the Conferees. Instead, the Conference Report simply requires the FCC to study this question and report back to Congress. A study will not help consumers who want satellite service, but are denied access to network programming. I hope that the distinguished Chairman of the Commerce Committee will take swift and appropriate action when that FCC report comes back to this body with its recommended changes. These rules need to be changed if we are ever going to have truly effective competition to cable.

Mr. Speaker, I believe that the Conference Report, on balance, is a pro-consumer, pro-competitive piece of legislation and recommend its approval.

Mr. BLILEY. Mr. Speaker, I rise in strong support of the Conference Report on H.R. 1554, the Intellectual Property and Communications Omnibus Reform Act of 1999.

Mr. Speaker, this bill represents a significant achievement for the 106th Congress. When the Committee on Commerce began its deliberations on this measure nearly a year ago, we established that our overarching objective would be to produce a bill that creates competition with incumbent cable operators.

Because in the end, it is competition—and competition alone!—that will discipline cable operators. We tried cable rate regulation. And it failed—miserably.

But now the House stands on the brink of passing a strong pro-competition, pro-consumer bill.

I should add that, as early as last week, this legislation was headed in the wrong direction.

The draft legislation preserved the status quo * * * rather embracing the future and providing meaningful competition.

But during the last several days, several key provisions were included that put this legislation back on track. The Conferees included a provision that will jump-start local-into-local, and also included a provision that will permit many consumers to continue receiving two distant network signals.

With the addition of these two provisions, Congress can now genuinely represent to consumers that they will have a choice—and soon. This holiday season, for the first time, consumers will be able to go into their local consumer electronics store and purchase a true alternative to cable.

Until today, many consumers who considered buying satellite service decided not to buy it because satellite was missing a key ingredient: local broadcast channels. This legislation adds the missing ingredient. And every indication is that satellite subscribership will increase as a result.

Moreover, by phasing in local broadcasters' retransmission consent rights, this bill will jump-start local-into-local service. By this Christmas, tens of millions of satellite consumers will have access to local broadcast channels. DIRECTV alone will offer local broadcast channels to up to 50 million homes.

That accounts for about half of the nation's TV households. That's also a recipe for meaningful competition. And that's why I urge my colleagues to join me in supporting this Conference Report.

In closing, Mr. Speaker, let me acknowledge the work of several of my colleagues on the Conference. I commend the work of Mr. TAUZIN, Mr. OXLEY, and Mr. MARKEY, as well as the commitment of Mr. HYDE, Mr. COBLE, and Mr. GOODLATTE.

I also want to extend a special thanks to the Chairman of the Senate Judiciary Committee, Mr. HATCH. He and I worked closely together these last few days in an effort to forge a bill that not only would be good for consumers, but also a bill that key industry participants could jointly support. I commend him for his fine work in this area.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak on behalf of H.R. 1554, which I supported in an earlier vote on the floor. This conference report redefines the role of our telecommunications industry by establishing fair competition for those participating within this industry.

This bill is an important one for several reasons. First, because it provides the rules and regulations that will allow satellite service providers, like Prime Star and Direct TV, to compete for television services in areas that have until now, been traditionally dominated by cable companies.

In the past, satellite service providers, unlike their land-based competitors, have not been allowed to re-broadcast local television signals. The result of this inequity has seriously undermined the ability of dish providers to provide meaningful competition to cable, notwithstanding the development of small dish-based systems that are more affordable than ever before.

This bill rectifies this situation, by finally allowing satellite service providers to provide local television programming to their customers. This means that my constituents in Houston will be able to select between at least two services to satisfy their television needs. The fact that we are giving dish-providers the ability to rebroadcast local signals, however, does not come without additional responsibility. Under this bill, dish-providers will not be able to carry only those signals that stand to earn them a great deal of profit—they must also carry all of those local signals that are required of the cable companies. After all, this bill was designed in order to erase inequities, not further them.

Another mechanism in this bill that provides for an equal footing is the non-discrimination clause, which tells broadcasters that they must make their signals available for rebroadcast by cable and satellite companies. This prevents broadcasters from altering the landscape of competition in their markets by tipping the scales in favor of one side over the other by allowing them to chose who will have the rights to re-broadcast their signals.

Most of all, however, I am convinced that we are addressing a topic that is vital to our constituents. Mr. Speaker, I would like to thank this bill's sponsors and those who participated in the conference on moving forward with this needed bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 1554.

The question was taken.

Mr. COBLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1390

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1390.

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

There was no objection.

DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 335) to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes, as amended.

The Clerk read as follows:

S. 335

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT
Sec. 101. Short title.
Sec. 102. Restrictions on mailings using misleading references to the United States Government.
Sec. 103. Restrictions on sweepstakes and deceptive mailings.
Sec. 104. Postal service orders to prohibit deceptive mailings.
Sec. 105. Temporary restraining order for deceptive mailings.
Sec. 106. Civil penalties and costs.
Sec. 107. Administrative subpoenas.
Sec. 108. Requirements of promoters of skill contests or sweepstakes mailings.
Sec. 109. State law not preempted.
Sec. 110. Technical and conforming amendments.
Sec. 111. Effective date.
TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY
Sec. 201. Short title.
Sec. 202. Portability of service credit.
Sec. 203. Certain transfers to be treated as a separation from service for purposes of the thrift savings plan.
Sec. 204. Clarifying amendments.
TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.
Sec. 301. Transfer of certain property to State and local governments.

TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Deceptive Mail Prevention and Enforcement Act''.

SEC. 102. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or'';

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or

program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or'';

(3) by redesignating subsections (j) and (k) as subsections (m) and (n), respectively; and

(4) by inserting after subsection (i) the following:

''(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(2) Matter described in this paragraph is any matter that—

''(A) constitutes a solicitation for the purchase of or payment for any product or service that—

''(i) is provided by the Federal Government; and

''(ii) may be obtained without cost from the Federal Government; and

''(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A).''.

SEC. 103. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 102(4)) the following:

''(k)(1) In this subsection—

''(A) the term 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

''(B) the term 'facsimile check' means any matter that—

''(i) is designed to resemble a check or other negotiable instrument; but

''(ii) is not negotiable;

''(C) the term 'skill contest' means a puzzle, game, competition, or other contest in which—

''(i) a prize is awarded or offered;

''(ii) the outcome depends predominately on the skill of the contestant; and

''(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(D) the term 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(3) Matter described in this paragraph is any matter that—

''(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

''(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

''(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

''(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

''(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

''(V) does not contain sweepstakes rules that state—

''(aa) the estimated odds of winning each prize;

''(bb) the quantity, estimated retail value, and nature of each prize; and

''(cc) the schedule of any payments made over time;

''(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

''(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

''(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

''(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

''(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

''(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

''(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

''(III) does not contain skill contest rules that state, as applicable—

''(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

''(bb) that subsequent rounds or levels will be more difficult to solve;

''(cc) the maximum cost to enter all rounds or levels;

''(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

''(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

''(ff) the method used in judging;

''(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

''(hh) the quantity, estimated retail value, and nature of each prize; and

''(ii) the schedule of any payments made over time; or

''(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

''(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

''(A) is not directed to a named individual; or

''(B) does not include an opportunity to make a payment or order a product or service.

''(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

''(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

''(l)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

''(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

''(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

''(ii) that attorney general transmits such request to the mailer.

''(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.''.

SEC. 104. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking ''or'' after ''(h),'' each place it appears; and

(2) by inserting '', (j), or (k)'' after ''(i)'' each place it appears.

SEC. 105. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

(a) IN GENERAL.—Section 3007 of title 39, United States Code, is amended—

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

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

''(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

''(2)(A) Upon a proper showing, the court shall enter an order which shall—

''(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

''(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

''(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

''(3) Mail detained under paragraph (2) shall—

''(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

''(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

''(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

''(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.''.

(b) REPEAL.—

(1) IN GENERAL.—Section 3006 of title 39, United States Code, and the item relating to such section in the table of sections for chapter 30 of such title are repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 3005(c) of title 39, United States Code, is amended by striking ''section and section 3006 of this title,'' and inserting ''section,''.

(B) Section 3011(e) of title 39, United States Code, is amended by striking ''3006, 3007,'' and inserting ''3007''.

SEC. 106. CIVIL PENALTIES AND COSTS.

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking ''$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection.'' and inserting ''$50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.'';

(2) in paragraphs (1) and (2) of subsection (b) by inserting after ''of subsection (a)'' the following: '', (c), or (d)'';

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

(4) by inserting after subsection (b) the following:

''(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed $25,000 for each mailing of less than 50,000 pieces; $50,000 for each mailing of 50,000 to 100,000 pieces; with an additional $5,000 for each additional 10,000 pieces above 100,000, not to exceed $1,000,000.

''(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

''(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed $10,000 for each mailing to an individual.''.

SEC. 107. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''§ 3016. Administrative subpoenas

''(a) SUBPOENA AUTHORITY.—

''(1) INVESTIGATIONS.—

''(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

''(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

''(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

''(ii) appropriate supervisory and legal review of a subpoena request be performed; and

''(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

''(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

''(b) SERVICE.—

''(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

''(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

''(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

''(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

''(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

''(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

''(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

''(A) delivering a duly executed copy to the person to be served; or

''(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

''(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

''(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court may be punished as contempt.

''(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a).

(c) SEMIANNUAL REPORTS.—Section 3013 of title 39, United States Code, is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

''(5) the number of cases in which the authority described in section 3016 was used, and a comprehensive statement describing how that authority was used in each of those cases; and''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''3016. Administrative subpoenas.''.

SEC. 108. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 107) is amended by adding after section 3016 the following:

''§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

''(a) DEFINITIONS.—In this section—

''(1) the term 'promoter' means any person who—

''(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

''(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

''(2) the term 'removal request' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

''(3) the terms 'skill contest', 'sweepstakes', and 'clearly and conspicuously displayed' have the same meanings as given them in section 3001(k); and

''(4) the term 'duly authorized person', as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

''(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

''(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

''(ii) does not comply with subsection (c)(1).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

''(A) is clearly and conspicuously displayed;

''(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

''(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

''(d) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

''(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized person) notifies the promoter in writing that such individual—

''(A) has changed the election; and

''(B) elects to receive skill contest or sweepstakes mailings from that promoter.

''(e) PRIVATE RIGHT OF ACTION.—

''(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action to enjoin such violation;

''(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater; or

''(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

''(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(l) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

''(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

''(1) a removal request is received by the promoter's notification system; and

''(2) the promoter has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing to an individual of nonmailable matter; or

''(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

''3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 109. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this title (including the amendments made by this title) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO REPEALED PROVISIONS.—Section 3001(a) of title 39, United States Code, is amended by striking ''1714,'' and ''1718,''.

(b) CONFORMANCE WITH INSPECTOR GENERAL ACT OF 1978.—

(1) IN GENERAL.—Section 3013 of title 39, United States Code, is amended—

(A) by striking ''Board'' each place it appears and inserting ''Inspector General'';

(B) in the third sentence by striking ''Each such report shall be submitted within sixty days after the close of the reporting period involved'' and inserting ''Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved''; and

(C) by striking the last sentence and inserting the following:

''The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.''.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act, and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.

SEC. 111. EFFECTIVE DATE.

Except as provided in section 108 or 110(b), this title shall take effect 120 days after the date of the enactment of this Act.

TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Federal Reserve Board Retirement Portability Act''.

SEC. 202. PORTABILITY OF SERVICE CREDIT.

(a) CREDITABLE SERVICE.—

(1) IN GENERAL.—Section 8411(b) of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (3);

(B) in paragraph (4)—

(i) by striking ''of the preceding provisions'' and inserting ''other paragraph''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) a period of service (other than any service under any other paragraph of this subsection, any military service, and any service performed in the employ of a Federal Reserve Bank) that was creditable under the Bank Plan (as defined in subsection (i)), if the employee waives credit for such service under the Bank Plan and makes a payment to the Fund equal to the amount that would have been deducted from pay under section 8422(a) had the employee been subject to this chapter during such period of service (together with interest on such amount computed under paragraphs (2) and (3) of section 8334(e)).

Paragraph (5) shall not apply in the case of any employee as to whom subsection (g) (or, to the extent subchapter III of chapter 83 is involved, section 8332(n)) otherwise applies.''.

(2) BANK PLAN DEFINED.—Section 8411 of title 5, United States Code, is amended by adding at the end the following:

''(i) For purposes of subsection (b)(5), the term 'Bank Plan' means the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter).''.

(b) EXCLUSION FROM CHAPTER 84.—

(1) IN GENERAL.—Paragraph (2) of section 8402(b) of title 5, United States Code, is amended by striking the matter before subparagraph (B) and inserting the following:

''(2)(A) any employee or Member who has separated from the service after—

''(i) having been subject to—

''(I) subchapter III of chapter 83 of this title;

''(II) subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

''(III) the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act; and

''(ii) having completed—

''(I) at least 5 years of civilian service creditable under subchapter III of chapter 83 of this title;

''(II) at least 5 years of civilian service creditable under subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

''(III) at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act,

determined without regard to any deposit or redeposit requirement under either such subchapter or under such benefit structure, or any requirement that the individual become subject to either such subchapter or to such benefit structure after performing the service involved; or''.

(2) EXCEPTION.—Subsection (d) of section 8402 of title 5, United States Code, is amended to read as follows:

''(d) Paragraph (2) of subsection (b) shall not apply to an individual who—

''(1) becomes subject to—

''(A) subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election; or

''(B) the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter); and

''(2) subsequently enters a position in which, but for paragraph (2) of subsection (b), such individual would be subject to this chapter.''.

(c) PROVISIONS RELATING TO CERTAIN FORMER EMPLOYEES.—A former employee of the Board of Governors of the Federal Reserve System who—

(1) has at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act;

(2) was subsequently employed subject to the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of chapter 84 of title 5, United States Code); and

(3) after service described in paragraph (2), becomes subject to and thereafter entitled to benefits under chapter 84 of title 5, United States Code,

shall, for purposes of section 302 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 601; 5 U.S.C. 8331 note) be considered to have become subject to chapter 84 of title 5, United States Code, pursuant to an election under section 301 of such Act.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to succeeding provisions of this subsection, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PROVISIONS RELATING TO CREDITABILITY AND CERTAIN FORMER EMPLOYEES.—The amendments made by subsection (a) and the provisions of subsection (c) shall apply only to individuals who separate from service subject to chapter 84 of title 5, United States Code, on or after the date of enactment of this Act.

(3) PROVISIONS RELATING TO EXCLUSION FROM CHAPTER.—The amendments made by subsection (b) shall not apply to any former employee of the Board of Governors of the Federal Reserve System who, subsequent to his or her last period of service as an employee of the Board of Governors of the Federal Reserve System and prior to the date of enactment of this Act, became subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, under the law in effect at the time of the individual's appointment.

SEC. 203. CERTAIN TRANSFERS TO BE TREATED AS A SEPARATION FROM SERVICE FOR PURPOSES OF THE THRIFT SAVINGS PLAN.

(a) AMENDMENTS TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by inserting before section 8432 the following:

''§ 8431. Certain transfers to be treated as a separation

''(a) For purposes of this subchapter, separation from Government employment includes a transfer from a position that is subject to one of the retirement systems described in subsection (b) to a position that is not subject to any of them.

''(b) The retirement systems described in this subsection are—

''(1) the retirement system under this chapter;

''(2) the retirement system under subchapter III of chapter 83; and

''(3) any other retirement system under which individuals may contribute to the Thrift Savings Fund through withholdings from pay.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting before the item relating to section 8432 the following:

''8431. Certain transfers to be treated as a separation.''.

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 8351 of title 5, United States Code, is amended by redesignating paragraph (11) as paragraph (8), and by adding at the end the following:

''(9) For the purpose of this section, separation from Government employment includes a transfer described in section 8431.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transfers occurring before, on, or after the date of enactment of this Act, except that, for purposes of applying such amendments with respect to any transfer occurring before such date of enactment, the date of such transfer shall be considered to be the date of enactment of this Act. The Executive Director (within the meaning of section 8401(13) of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection.

SEC. 204. CLARIFYING AMENDMENTS.

(a) IN GENERAL.—Subsection (f) of section 3304 of title 5, United States Code, as added by section 2 of Public Law 105–339, is amended—

(1) by striking paragraph (4);

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

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

''(2) If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 31, 1998.

TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.

SEC. 301. TRANSFER OF CERTAIN PROPERTY TO STATE AND LOCAL GOVERNMENTS.

Section 203(p)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)(B)(ii)) is amended by striking ''December 31, 1999.'' and inserting ''July 31, 2000. During the period beginning January 1, 2000, and ending July 31, 2000, the Administrator may not convey any property under subparagraph (A), but may accept, consider, and approve applications for transfer of property under that subparagraph.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

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

I am pleased to bring forward S. 335 with the provisions of the House-passed Deceptive Sweepstakes Mailing Bill, H.R. 170, and would like to begin by taking the opportunity to thank all of the members of the Subcommittee on the Postal Service for their continued interest, for the effort they showed in moving this important legislation, and a particular tip-of-the-hat to the gentleman from the great State of Pennsylvania (Mr. FATTAH), our ranking member, for his input and for his great assistance in making this legislation

stronger and of wider appeal to those who are affected by its provisions. I firmly believe today, Mr. Speaker, by taking this action, we help to ensure the enactment of this important legislation in this year.

On behalf of the gentleman from Indiana (Mr. BURTON), our full committee chairman, I must also note that this bill, S. 335, includes provisions that it is my understanding the other body has agreed to include. Incorporated in the bill is H.R. 807, which passed the House under suspension of the rules by voice vote on March 16 of this year after being introduced on February 23 by the gentleman from Florida (Mr. SCARBOROUGH), our Subcommittee on Civil Service chairman, with eight original cosponsors including, I might add, the gentleman from California (Mr. WAXMAN), our full committee's ranking member.

Very briefly, Mr. Speaker, H.R. 807, included as Title II of S. 335, provides retirement portability for certain Federal Reserve Board employees who take jobs in the executive branch. It would allow those employees who participate in the board's FERS-like retirement plan to obtain FERS credit for their Federal Reserve years when they transfer to another Federal agency. The Federal Reserve already provides such reciprocity for employees who transfer to Federal Reserves from other Federal agencies. Without this correction, former board employees would, I think unfairly, receive smaller annuities upon retirement than they otherwise would and otherwise should.

This title will also correct an inequity in current law that prevents certain Federal Reserve employees from withdrawing their funds from the Thrift Savings Plan accounts. Finally, one section in this title is critically important to the men and women who have served our Nation in the Armed Services. It clarifies the Veterans Employment Opportunities Act of 1988 to ensure that veterans will receive the benefits that Congress intended when it passed that act last year.

Mr. Speaker, H.R. 3187, also included in this new presentation, represents a bill introduced by the gentleman from California (Mr. CALVERT) which would amend the 1949 Federal Property and Administrative Services Act to continue the authority allowing no-cost conveyances of surplus Federal property to State and local governments for law enforcement and emergency response purposes.

Under the Federal Property Act, State and local governments or eligible nonprofit entities can obtain surplus property at no cost for several authorized public purpose programs. These programs include education, public health, correctional facilities and public airports. A bill that became law in the 105th Congress introduced by the gentleman from California (Mr. CALVERT) added law enforcement and emergency management response purposes to this list. Prior to its enactment, however, the bill was amended to include a December 31, 1999 sunset date for these new public purpose categories.

There are currently more than 22 pending State and local government applications for these purposes nationwide. These new conveyance categories have been invaluable for local governments, for enhancing their law enforcement and fire and rescue training efforts. These new authorities have allowed for an excellent reuse of surplus Federal property that would be lost, at least in the main, if we do not take some step at this point to extend the current opportunity for the Federal authorities to go forward.

Accordingly, H.R. 3187 provides that during the extension the General Services Administration, while not being able to actually convey surplus Federal property at no cost for law enforcement and emergency response purposes, would, however, retain under the GSA at least the ability to consider and approve the applications for transfer during this extension.

Additionally, prior to December 31, the GSA can convey surplus property at no cost for law enforcement and emergency response purposes to qualifying State and local governments, and as such this extension represents an important sense of relief to those local governments that have acted in good faith and stand to lose the receipt of Federal surplus properties at no cost absent our action.

In regard to the underlying bill, S. 335 itself, Mr. Speaker, the House has already discussed and debated this measure extensively on November 2 when we passed it under suspension of the rules by a voice vote. I do not want to reiterate all of the comments made then, as important as they were, but let me say just briefly, with the authorization that we are about to extend once more on this House floor, this body stands to take a great step towards protecting those vulnerable, particularly our senior citizens, who have been preyed upon far too often by unscrupulous sweepstakes mailers.

Those individuals, as few as they may be, who have come where the laws are apparently insufficient and have used deceptive practices to prey upon generally the elderly, but in other measures certainly the infirm, those who are most vulnerable, as I said, and in many cases, bilking them out of thousands, sometimes tens and even hundreds of thousands of dollars of hard-earned money and their life savings.

Today, this House can make again the statement that this Congress will not abide by that kind of activity and we will enact those laws necessary to ensure that future sweepstakes proposals are done under the guise of full disclosure, that deceptive practices, that misleading claims, that facsimile presentations so that checks are made to look like actual government documents, can no longer be continued.

Beyond the efforts that I mentioned of the ranking member and others on the committee, I certainly want to extend a particular thanks to the gentleman from New Jersey (Mr. LOBIONDO), who really brought this House's attention to this issue last year when he began formulating a response. We also owe great thanks to others, including the gentleman from California (Mr. ROGAN); the gentleman from Florida (Mr. MCCOLLUM); and of course the language in this bill is based, in large measure, upon Senator SUSAN COLLINS's comprehensive bipartisan sweepstakes mailing legislation which passed the other body by a 93-to-0 vote.

So, Mr. Speaker, as my colleagues can see, we have drawn from many sources here to craft what I believe is not just a reasonably balanced, but a tremendously effective and most needed piece of legislation. I urge its immediate and overwhelming approval.

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

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

I rise in support of Senate bill 335, the Deceptive Mail Prevention and Enforcement Act. As has been mentioned by my colleague and the majority chairman from the great State of New York, a number of other provisions have been added to this bill. H.R. 807, which would respond I think appropriately to some adjustments needed and retirement opportunities for Federal Reserve Board employees, and H.R. 3187, having to do with the disposition of surplus Federal property.

I would note that under the disposition of Federal property bill, that no property will be able to be disposed of, but that this extension will allow a continuation of applications and appropriate consideration by the GSA of proposals by local governments and nonprofits for usage of those Federal properties.

I would like to say that I think that on the primary bill, the sweepstakes bill, that we have done a very good job, and I would like to compliment the work of the gentleman from California (Mr. CONDIT) on my side of the aisle who was also a prime sponsor, cosponsor of the original legislation. I think that this bill as presented now and as agreed to by the Senate appropriately addresses the need for curtailment of some of the excesses that we have seen in terms of sweepstakes mailings.

I am particularly pleased that adopted and embraced in this bill is my amendment that will provide a private right of action for individuals in relationship to abuses that they face. Again, I am pleased that the committee found it appropriate, the conference committee, to endorse and embrace the amendment that I offered that would allow a private right of action to individual citizens who want to seek redress for excesses that we all have found all too common through parts of this industry.

So I rise in support of S. 335. I would hope that the House would adopt it. I think it is appropriate, and moderate in its approaches, but I think it will get the job done. I do want to thank the majority Chairman, because I think he has helped guide this legislation through, and on this evening we are going to see the result of his hard work.

Mr. Speaker, as the Ranking Minority member of the Subcommittee on the Postal Service, I am pleased to join Chairman MCHUGH in the consideration of S. 335, the Deceptive Mail Prevention and Enforcement Act. In addition, I support the consideration of this measure amended, with the text of the following three bills:

H.R. 170, the Deceptive Mail Prevention and Enforcement Act of 1999, as passed by the House by voice vote on November 2, 1999;

H.R. 807, the Federal Reserve Board Retirement Portability Act, as passed by the House by voice vote on March 16, 1999, and

H.R. 3187, legislation amending the Federal Property and Administrative Services Act of 1949 to temporarily continue authority relating to transfers of certain surplus property to State and local governments for law enforcement and emergency response purposes.

H.R. 170, was introduced on January 6, 1999, by Congressmen LOBIONDO and CONDIT, and reported on October 28, 1999, from the Government Reform Committee, and passed unanimously by the House on November 2, 1999.

While closely mirroring the sweepstakes language contained in S. 335, H.R. 170, adds two very important and critical consumer protection provisions. First, although we provided the Postal Service with subpoena authority to combat sweepstakes fraud, we have limited the scope of subpoena authority to only those provisions of law addressing deceptive mailings, and required the Postal Service to develop procedures for the issuance of subpoenas.

Second, we have added language which I authored, establishing a private right of action to sweepstakes legislation. The private right of action would allow consumers to file suit in state court if a sweepstakes promoter continues to send mailings despite having requested removal from a mailer's list. This is an important enforcement tool particularly with respect to the problem of unwanted mailings. I am pleased to note that it is supported by the National Consumers League, the American Association of Retired Persons and the Direct Marketing Association.

The issue of consumer protection, whether it relates to telemarketing fraud or sweepstakes deception is receiving the attention it deserves. Just last week, the United States Inspection Service joined key government and civic organizations at a national press conference to launch the most ambitious fraud prevention initiative in history. On November 16, 1999, a jumbo postcard containing valuable mail and telemarketing fraud prevention tips will be mailed to every home in America. A portion of the card reads, ''Fraudulent Telemarketers: They've got your number . . . now they want your money!'' I am pleased my colleagues have recognized the importance of consumer protection and voted support a private right of action!

H.R. 807

H.R. 807, the Federal Reserve Board Retirement Portability Act was introduced by Congressman SCARBOROUGH, Chairman of the Subcommittee on Civil Service. It is cosponsored by the Ranking Minority Member of that subcommittee, Congressman CUMMINGS and the Ranking full committee member, Congressman WAXMAN. It was passed unanimously by the House on August 2, 1999.

The legislation would amend title 5, of the U.S. code pertaining to government organization and employees, to provide portability of service credit for persons who leave employment with the Federal Reserve Board to take positions with other Government agencies.

Currently, if an employee of the Federal Reserve Board leaves to work for another federal agency, the employee is required to join the Federal Employees Retirement System (FERS). Under the current FERS statute, time spent working at the Board after 1988, does not count as ''creditable service'' towards a FERS annuity. As a result, these employees will receive smaller pensions upon retirement.

H.R. 807 will correct this problem and also allow current and future Federal employees who transfer to the Board, to transfer the funds from their FERS Thrift Savings Accounts (TSP) to the Federal Reserve Thrift Savings Plan.

In addition, H.R. 807 contains clarifying language ensuring that America's veterans are hired as Career Status appointees. Apparently, the Office of Personnel Management (OPM) interpreted the Veterans' Employment Opportunities Act of 1998, to mean that veterans could be hired for a Federal job as Schedule B appointees, rather than as Career Status appointees. Schedule B appointments are not afforded the same rights and privileges as Career Status employees.

The Veterans' Employment Opportunities Act improves the ability of veterans to compete during the Federal hiring process and extends veterans preference to all branches of the Federal government. Both the Senate and OPM have agreed that language was needed to clarify the original intent of Congress.

H.R. 3187

H.R. 3187, which would amend the Federal Property and Administrative Services Act of 1949 to temporarily continue authority relating to transfers of certain surplus property to State and local governments for law enforcement and emergency response purposes, was introduced by Congressman CALVERT on November 1, 1999.

The Federal Property Act is the basic law regarding the acquisition, utilization, and disposition of federal property. Under the Federal Property Act, real property that is no longer needed by a federal agency is reported to the General Services Administration (GSA) as excess property. Excess property is screened for reuse by other federal agencies. If another federal agency determines that it can use the property, it is reused. If there is no other federal use for the property, it becomes available for disposal as ''surplus'' real property.

Under existing law, eligible state and local government units and certain nonprofit institutions may acquire surplus real property for public benefit purposes at monetary discounts of up to 100%. Public benefit discount conveyance categories include public parks and recreation, historic monuments, public airports, health, education, correctional facilities, highways, and wildlife conservation. H.R. 3187 would establish a temporary public benefit conveyance for law enforcement and emergency services training.

Current authority expires by December 31, 1999, the sunset date for transfers of surplus federal property to state and local government at substantial discounts for law enforcement or emergency management response purposes. Under H.R. 3187, the sunset date would be extended to July 31, 2000. While, no properties can be conveyed under this authority, the GSA can accept, consider, and approve applications for transfer.

Currently, at least 22 jurisdictions around the country have submitted applications to acquire surplus federal property for law enforcement or emergency response purposes. At least three of these jurisdictions have successfully acquired the surplus property for law enforcement and emergency response. The current expiration date for this program would jeopardize existing applications, as well as the filing of new ones.

I am pleased that the House is moving this important measure, S 335, as amended and I urge all my colleagues to vote in support of the bill.

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

Mr. MCHUGH. Mr. Speaker, I yield myself 15 seconds to just briefly respond to the gracious comments of the ranking member by saying, as he noted and as I want very much to make clear, his input and constructive suggestions were very important to making this, I think, a better bill than when we received it.

Mr. Speaker, I am pleased and honored to yield 2 minutes to the gentleman from New Jersey (Mr. LOBIONDO), whose name I mentioned just moments ago, and who is certainly, from my perspective, the individual who first brought this situation to light and, through his hard work, helped articulate a response to the problem for our attention.

(Mr. LOBIONDO asked and was given permission to revise and extend his remarks.)

Mr. LOBIONDO. Mr. Speaker, I rise in very strong support of this legislation. I most importantly want to thank all of my colleagues for joining in to recognize an issue that has impact on so many in our society that have been made vulnerable by dishonest marketing practices. I want to especially thank the gentleman from New York (Mr. MCHUGH) for his leadership. The hearing that we had earlier this year really served to focus and highlight on the problem. I want to thank the gentleman from Philadelphia (Mr. FATTAH) for his efforts, the gentleman from California (Mr. CONDIT) for gaining so many cosponsors on the other side, the gentleman from California (Mr. WAXMAN), and of course the gentleman from Indiana (Mr. BURTON) for all of his help in this area.

When I first went to senior centers and asked how many had received some of these mailings, it was unbelievable the stories that took place, and each one of our districts can have examples

of seniors who have fallen prey and unfortunately in many cases have lost their life savings to these unfortunate marketing practices.

This bill will send a very strong message. We are acting for the people of the United States of America who really deserve our help, the seniors of America. I thank everyone.

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Mr. FATTAH. Mr. Speaker, I yield 1 minute to the gentleman from the great State of Maryland (Mr. CARDIN), who is a member of the Committee on Ways and Means and also is a better golfer than me.

Mr. CARDIN. I am not sure about the last comment, Mr. Speaker, but let me thank my friend, the gentleman from Pennsylvania, for his work on this legislation and all that is involved in bringing forward the sweepstake legislation.

I know in my district I have heard from many of my seniors who have been victimized by believing that they have won a sweepstake, only to send back information, and the only thing that they found out is that it cost them money to buy magazine subscriptions. They have spent thousands of dollars in hopes of winning the sweepstake that they never won.

The Attorney General in my State, Joe Curran, has documented many, many abuses by many, many sweepstake operators. This is true around the Nation.

This is an important bill. I am glad we are able to move it forward. It is going to affect thousands of our constituents in each one of our districts. Hopefully it is going to change the practice of magazine owners or magazine companies in the way that they sell their subscriptions. They have to be more direct with our constituents and let them know that they have not won a sweepstake.

Mr. MCHUGH. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. HANSEN), a good friend of this bill and a colleague of mine on the Committee on Armed Services.

As I mentioned, Mr. Speaker, there were many who had input into this process, and he is one of the gentlemen who has spoken to me about a very important related issue with respect to billing processes through the mail.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

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

Mr. Speaker, I think this is an excellent piece of legislation. I commend the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from New York (Mr. MCHUGH) for the hard work they have done on this.

Mr. Speaker, a lot of people do not realize that at the end of these sweepstakes they enter, what do they do? A lot say they buy something.

I think it is very interesting. I went down to my little town where I live and where the gentlemen hold court that are all retired and have their coffee every morning. They told me, they said, ''I buy this stuff,'' and they talked about a certain magazine, nine of them sitting around the table. ''We all bought this magazine popular in the Second World War. We paid it immediately.''

And then what happened? They kept billing them and billing them and billing them, and they sent their canceled check and nothing would happen. This is an outfit out of Florida, and one time after another.

I started checking into it. I said, well, I think you folks do not understand it. I put one in, paid mine, and immediately they billed me. I paid it, and I got billed five times in a row. I finally had to call them up to get them off of it. I tried that a number of other places. I tried it with one on home repairs, and they billed me and billed me, and finally turned it over to a collection agency.

Then I looked at my father-in-law who is 89 years old. I pay all his bills for him. He paid one bill 10 times because he did not realize he had been billed all these times. I commend the gentleman for what he is doing. I would point out, I think there is a predator billing problem going on in America right now. It has an a lot to do with these magazines and all this other paraphernalia they sell through the mail.

There is no way on Earth these people get a response. They send a letter, a copy of their canceled check, and nobody ever responds. There ought to be a way, Mr. Speaker, and maybe it is to the point that this organization called the U.S. House and Senate should do something about it, to take care of the people who are getting bilked by these people.

I thank the gentleman, and I support this legislation. I wanted to add that one further note.

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

Mr. Speaker, in conclusion, I would like to say that the first amendment that I passed on the floor of this House had to do with going after telemarketing fraud. This sweepstakes issue is just another, I think, head of the same animal.

It is of note that just last week the United States Postal Service, along with key government and civic leaders, had a press conference to announce a nationwide effort to go after telemarketing fraud in a very serious way, and I just want to say that I think the House this evening collaborates in that effort by the passage of this very important piece of legislation.

I thank my colleague, the gentleman from New York (Mr. MCHUGH), someone who I have had the pleasure to work with for a few years on this committee, and we have gotten a lot done.

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

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

As we have heard today, this is a good bill. It needs to be acted on now, so let us do that.

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

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the Senate bill, S. 335, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 335, as amended, the legislation just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: House Concurrent Resolution 223, by the yeas and nays; and the conference report on H.R. 1554, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SENSE OF CONGRESS REGARDING FREEDOM DAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 223.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 223, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 16, as follows:

[Roll No. 580]

YEAS—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Spence
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—16

Chenoweth-Hage
Deal
Edwards
Gephardt
Hastings (FL)
Hoyer
Martinez
Matsui
McDermott
Pascrell
Scarborough
Shuster
Smith (TX)
Spratt
Wexler
Young (FL)

□ 1942

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to clause 8 of rule XX, the Chair announces that he will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATONS OMNIBUS REFORM ACT OF 1999

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 1554.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 1554, on which the yeas and nays were ordered.

This will be a 5-minute vote

The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 14, as follows:

[Roll No. 581]

YEAS—411

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink

Moakley	Rivers	Stupak
Mollohan	Rodriguez	Sununu
Moore	Roemer	Sweeney
Moran (KS)	Rogan	Talent
Moran (VA)	Rogers	Tanner
Morella	Rohrabacher	Tauscher
Murtha	Ros-Lehtinen	Tauzin
Myrick	Rothman	Taylor (MS)
Nadler	Roukema	Taylor (NC)
Napolitano	Roybal-Allard	Terry
Neal	Royce	Thomas
Nethercutt	Rush	Thompson (CA)
Ney	Ryan (WI)	Thompson (MS)
Northup	Ryun (KS)	Thornberry
Norwood	Sabo	Thune
Nussle	Salmon	Thurman
Oberstar	Sanchez	Tiahrt
Obey	Sanders	Tierney
Olver	Sandlin	Toomey
Ortiz	Sawyer	Towns
Ose	Saxton	Traficant
Owens	Schaffer	Turner
Oxley	Schakowsky	Udall (CO)
Packard	Scott	Udall (NM)
Pallone	Sensenbrenner	Upton
Pastor	Serrano	Velazquez
Payne	Sessions	Visclosky
Pease	Shadegg	Vitter
Pelosi	Shaw	Walden
Peterson (MN)	Shays	Walsh
Peterson (PA)	Sherman	Wamp
Petri	Sherwood	Watkins
Phelps	Shimkus	Watt (NC)
Pickering	Shows	Watts (OK)
Pickett	Simpson	Waxman
Pitts	Sisisky	Weiner
Pombo	Skeen	Weldon (FL)
Pomeroy	Skelton	Weldon (PA)
Porter	Slaughter	Weller
Portman	Smith (MI)	Weygand
Price (NC)	Smith (NJ)	Whitfield
Pryce (OH)	Smith (WA)	Wicker
Quinn	Snyder	Wilson
Radanovich	Souder	Wise
Rahall	Spence	Wolf
Ramstad	Stabenow	Woolsey
Rangel	Stark	Wu
Regula	Stearns	Wynn
Reyes	Stenholm	Young (AK)
Reynolds	Strickland	Young (FL)
Riley	Stump	

NAYS—8

Kaptur	Paul	Vento
Kucinich	Sanford	Waters
LaFalce	Tancredo	

NOT VOTING—14

Chenoweth-Hage	Lipinski	Shuster
Deal	Martinez	Smith (TX)
Edwards	Matsui	Spratt
Gephardt	Pascrell	Wexler
Gillmor	Scarborough	

□ 1952

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I rise for the purposes of inquiring from the Majority Leader the schedule for the remainder of the evening and the rest of the week.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman taking this time. Mr. Speaker, as my colleagues know, we are in that part of the year where we are all working in different rooms, in different projects, trying to come to agreement on different matters.

At this point in the evening, what I am going to suggest we do is have the body retire to some special orders for a while, some discussion. We will have a few minutes to sort things out, at which time we can get back in touch with the Members, either by announcement of the floor or through the whip organizations.

We do anticipate that we will in very short order be able to resume work, having more votes on issues related to the appropriations and budget cycle. But it is just one of these times where we sort of have to fall back, regroup, and assess things, and make sure we have precise information to exchange between the two sides so we can reach agreement to proceed.

If the body would indulge us in that regard, we would be back in touch with Members, who we would ask to stay close to an information source, I am sure within the next 30 minutes at the outset.

Mr. BONIOR. Mr. Speaker, let me just say to the gentleman from Texas that we understand how difficult at the end of a session it is to put the various pieces together and to wrap things up. But we also understand the need to utilize the time of the membership in the best possible way.

I was wondering if not, in a cooperative spirit, if we, indeed, are going to go to a CR that may, in fact, take us into next week, that we could do that at a relatively early hour this evening so Members could finish their business and leave and go home and ready and fresh for tomorrow's work. A lot of my colleague are asking about the action of even rolling the vote until tomorrow.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY) for a response.

Mr. ARMEY. Mr. Speaker, again, I thank the gentleman from Michigan for yielding to me. I think at this point in the evening, we need to reserve the opportunity for Members to have one or more recorded votes this evening on important legislative matters. If in fact that does not come to pass, I will communicate that as quickly as can I to the Members.

I do understand we have families, and we would like to be home or with our families. I can promise the Members that I will get this sorted out as quickly as possible and advise the Members.

We will be here working tomorrow. We will have votes tomorrow. Even as we proceed during the day tomorrow, I am sure there will be opportunities where we will just have to take a moment, sort things out, make sure we have the appropriate matters in the appropriate time sequencing, and make similar announcements to the body.

Mr. BONIOR. Mr. Speaker, when the gentleman from Texas spoke earlier, he mentioned 30 minutes as I recall; is that correct.

Mr. ARMEY. Mr. Speaker, again, if the gentleman will yield, as soon as I leave the floor, I will get to the key people with whom we have to consult, get the information sorted out, set the plan for the rest of the night, and then make that announcement to the Members.

Mr. BONIOR. Mr. Speaker, can the gentleman from Texas give me the prognosis for next week, or is that all contingent upon the discussions the gentleman has just referred to?

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, as the song from My Fair Lady goes, ''with a little bit of luck'', we will not be here. Other than that, we would just have to assess things up, and that would be one of those announcements that I could give with some degree of clarity and reliability tomorrow.

Mr. BONIOR. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the gentleman from Michigan for yielding to me.

Mr. Speaker, I would just like to make clear I have been told by the majority side on the Committee on Appropriations that there is a possibility that the committee will be asked to go to the Committee on Rules tonight to get a rule under which we could then consider the continuing resolution.

I would like to make it clear that we see no reason to tie all Members up for the remainder of the evening. If what is being contemplated is a simple, straight continuing resolution with no funny business, we are perfectly happy to provide unanimous consent so that we can take it up without wasting Member's time, and I would think we could voice it very quickly.

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

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, obviously the body appreciates the fine generous offer from the gentleman from Wisconsin (Mr. OBEY). I want to give the gentleman from Wisconsin every assurance that there will be a straight continuing resolution with no funny business. But it is just one of the things I want to be very clear about before I stand before my colleagues and say, yes, that is the request we make of them.

So I want to be able to make the precise request for my colleagues' agreement that we can define through the appropriate discussions with our colleagues. That should be done in just a few minutes.

Mr. BONIOR. Mr. Speaker, we vote against any funny business on our side, and we hope the gentleman will concur.

PERMISSION TO CONSIDER SPECIAL ORDER IN MEMORY OF THE LATE HONORABLE GEORGE E. BROWN FIRST

Mr. ARMEY. Mr. Speaker, as we begin some special orders in this interim planning period, I am advised that there are members of the family of the former Member, George Brown,

in attendance to the body at this very moment. We have a host of Members who would like to take some time to pay their respects to Mr. Brown. They are listed for a special order this evening.

Mr. Speaker, on behalf of the memory of George Brown, I ask unanimous consent that those Members who would like to have this discussion proceed with the proviso that they would yield for me to make any announcements or for us to take up any work that we would have to do later in the evening.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 2000

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2907

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to remove as cosponsor of my bill, H.R. 2907, the gentleman from Florida (Mr. BILIRAKIS).

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Is there objection to the request of the gentlewoman from California?

There was no objection.

ANNOUNCEMENT OF SUSPENSIONS TO BE CONSIDERED ON WEDNESDAY, NOVEMBER 10, 1999

Mr. LAZIO. Mr. Speaker, pursuant to House Resolution 353, I rise to announce the following suspensions to be considered tomorrow.

H. Res. 41, Honoring American Military Women for Their Service in World War II Resolution;

H.R. 1869, Stalking Prevention and Victim Protection Act of 1999;

H.R. 2336, the United States Marshals Service Improvement Act of 1999;

H.R. 2442, a very important piece of legislation, the Wartime Violation of Italian American Civil Liberties Act;

H. Con. Res. 122, recognizing the United States Border Patrol's 75 years of service since its founding;

H.R. 3234, to exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports and Elimination and Sunset Act of 1995;

And, finally, Mr. Speaker, H.R. 2454, the Arctic Tundra Habitat Emergency Conservation Act.

Those are the suspensions that will be considered tomorrow, Mr. Speaker.

PERSONAL EXPLANATION

Mr. KANJORSKI. Mr. Speaker, on November 4 and November 5, 1999, I was away from Washington on official business and unable to vote on several matters. Had I been present on rollcall 563, I would have voted ''yea''; on rollcall 564, I would have voted ''nay''; on rollcall 565, I would have voted ''yea''; on rollcalls 565, 567, and 568, I would have voted ''nay''; on rollcall 569, I would have voted ''yea''; and on rollcalls 571, 572, and 573, I would have voted ''yea''.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider in the House the joint resolution (H.J. Res. 78) making further continuing appropriations for the fiscal year 2000, and for other purposes; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. Under the Speaker's guidelines, the Chair is unable to entertain the gentleman's request at this time.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider in the House the joint resolution (H.J. Res. 78) making further continuing appropriations for the fiscal year 2000, and for other purposes; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

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

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, pursuant to the previous order of the House, I call up the joint resolution (H. J. Res 78) making further continuing appropriations for the fiscal year 2000, and for other purposes, for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 78 is as follows:

H.J. RES. 78

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 106–62 is further amended by striking ''November 10, 1999'' in section 1069c) and inserting in lieu thereof ''November 17, 1999'', and by striking ''$288,903,248'' in section 119 and inserting in lieu thereof ''$346,483,754.'' Public Law 106–46 is amended by striking ''November 10, 1999'' and inserting in lieu thereof ''November 17, 1999''.

The SPEAKER pro tempore. Pursuant to the order of the House, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.J. Res. 78, and that I may include tabular and extraneous material.

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

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the current continuing resolution expires tomorrow night. While we had planned to have all appropriations action completed by tomorrow, that will not be possible because of some ongoing negotiations with the administration. We will need an extension into next week because of the Veterans Day holiday.

H. J. Res. 78 would continue operations for the agencies in the five remaining bills until November 17, and I would urge our Members to support it.

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

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I do not think there is any purpose in dragging this out tonight. This is a simple extension until next Wednesday.

I think Members need to have some understanding of what remaining differences are out there, because I think there is a vast misperception about exactly where the conferees are on these issues. As I see it, on the interior appropriations bill, we have made some progress with respect to language items. There are still a number of important language items that have not been resolved, a number of the riders, and there is also at least one major dollar issue which still is to be resolved, and it is the biggest dollar problem in the bill.

□ 2015

With respect to State, Justice, Commerce, virtually all the dollar disagreements have been resolved. But there are still major differences with respect to language and riders. And again, that represents the items that remain represent major impediments to final agreement.

With respect to the Labor, Health, Education bill, we were in conference once today this morning. We went into conference the second time, or were invited to come into conference this afternoon. We went to the Senate in order to participate in that conference. While we were sitting in the conference room waiting for the conference to start, the majority conferees on the Senate side in charge of the conference were busy holding a press conference

denouncing the actions of those in the conference who represented the White House; and so, we wound up, instead of having a conference, having a press conference while we awaited the possibility of having a conference.

So we made no further progress on that bill since about noon.

That means I think that the individual Members of this place need to know what is going to happen with their schedules.

I would urge the majority party leadership to recognize what the scheduling reality is and to recognize that we either have to have maximum flexibility in reaching an agreement or else we need to have maximum recognition of reality on a timetable so that Members who are not participating in the conference do not have to hang around here waiting for things to happen that are not likely to happen.

I would hope that we could continue discussions and reach agreement on the items so that we do not have another round of recriminations before we finally get out of here.

It seems to me that if we could have more time spent discussing the differences and less time spent in shenanigans, we would all be a whole lot better off.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume just briefly to close and suggest that we are hoping that, as the negotiators continue their work during tomorrow and Thursday and Friday and Saturday and Sunday, that by Monday we will have workable packages that are agreed upon.

But we are at the final stage of the negotiations. Everyone who has ever negotiated knows that the most difficult decisions to agree on are put off to the end. Well, now we are at the end and we are dealing with the most difficult decisions.

As the gentleman from Wisconsin (Mr. OBEY) has pointed out, we have had very spirited negotiations most of the day today. We were here late last night. We were here over the weekend and we are moving as rapidly as we can. But we have some very strong differences of opinions between the Congress and even between the House and the Senate, as well as the administration.

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

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would just like to make one additional observation. I have seen in those conferences at least two people who are crucial to the conference falling asleep in the middle of the conferences. That is because they are bone tired.

I would suggest that the best thing we could do is stop the rhetoric tonight, pass this baby, go on home and get a good night's sleep, and show up tomorrow morning ready to do some business with each other for real.

Mr. YOUNG of Florida. Mr. Speaker, reclaiming my time, that is what I was going to say when the gentleman asked me to yield.

Mr. Speaker, I would hope that we would pass this continuing resolution expeditiously and let us get back to the bargaining table with the administration.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

The spirit that is being presented here is very much to be followed by a special order recognizing the service of our colleague, the gentleman from California (George Brown), so that Members would know that.

In the meantime, I very much appreciate the communication between both sides this evening.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield back the balance of my time, and I urge an expeditious aye vote on the resolution.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to the order of the House, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

COMMUNICATION FROM STAFF ASSISTANT OF HON. DALE E. KILDEE, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Lucretia Presnall, Staff Assistant of the Honorable Dale E. Kildee, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 2, 1999.

Hon. DENNIS J. HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a trial subpoena issued by the United States District Court for the Eastern District of Michigan in the case of *U.S.* v. *Fayzakov*, No. 99–CR–50015.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

LUCRETIA PRESNALL,
Staff Assistant.

CONTINUATION OF IRAN NATIONAL EMERGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–156)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1999, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and published in the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on November 12, 1998. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. On March 15, 1995, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959 of May 6, 1995, these sanctions were significantly augmented, and by Executive Order 13059 of August 19, 1997, the sanctions imposed in 1995 were further clarified. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and which are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–157)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

TRIBUTE TO A.M. ROSENTHAL

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

Mr. WOLF. Mr. Speaker, I rise today to express our appreciation for the service that has been given to our country and to the world by A.M. Rosenthal.

This past Friday was Mr. Rosenthal's last day at the New York Times. Mr. Rosenthal had a distinguished career at the New York Times beginning his tenure at the Times at age 21. He left his imprimatur on journalism and on the world through his opinion columns that exposed many cases of human rights violations and religious persecution.

Mr. Rosenthal was not afraid to speak truth to tyranny. He wrote unabashedly and boldly for those who suffered under egregious and appalling situations, while others remained silent.

Mr. Rosenthal addressed a wide spectrum of tyranny and never backed down. His wise words were the finest examples of speaking truth to abuses of power. His column spoke truth for the voiceless, freedom and liberty for the oppressed. His pen was truly mightier than the sword. Natan Sharansky, Harry Wu, Andrei Sakharov, and countless brave others have him to thank for stirring world opinion into forcing their freedom.

Mr. Speaker, I include the following articles for the RECORD:

[From the New York Times, Nov. 5, 1999]

WRITER-EDITOR ENDS A 55-YEAR RUN

A FINAL COLUMN FOR THE TIMES, BUT DON'T SAY RETIREMENT

(By Clyde Haberman)

After 55 years as a reporter, foreign correspondent, editor and columnist, A.M. Rosenthal spent his last working day at The New York times yesterday packing up his memories the only way he knew how: by writing about them.

Mr. Rosenthal ended a run of nearly 13 years on the newspaper's Op-Ed page with a column that appears today, looking back on a career that made him one of the most influential figures in American journalism in the last half of this century.

''I've seen happier days,'' he acknowledged in an interview.

But there was one word that he said he would never use to describe his new status. Don't dare to whisper ''retirement,'' he said, recalling what Barbara Walters, an old friend, told him a few weeks ago when it became clear that his weekly column, ''On My Mind,'' was near an end.

''She said to me, 'But Abe, you're starting fresh,'" he said, ''And I suddenly realized, of course I was. Then I realized that I'm not going alone. I'm taking my head with me. I'm going to stay alive intellectually.''

Mr. Rosenthal, 77 and universally known as Abe, said he intended to continue ''writing journalistically,'' though at this point he had no specific plans. ''I want to remain a columnist,'' he said.

There was an unmistakable end-of-an-era feel to the announcement yesterday that Mr. Rosenthal would leave a newspaper that, family aside, had been his life. Indeed, during his 17 years as its chief editor, until he stepped down in 1986 with the title of executive editor, ''Rosenthal'' and ''The Times'' were pretty much synonyms for many readers—often, though not always, with their approval.

Abraham Michael Rosenthal brought raw intelligence and enormous passion to the job, qualities that were apparent from his first days at The Times, as a part-time campus correspondent at City College in the 1940's. The college was tuition-free in those days, and a good thing, too, said Mr. Rosenthal, who was born in Canada and grew up in poverty in the Bronx. ''Free tuition was more than I could afford,'' he said yesterday.

After becoming a full-time reporter in 1944, he covered the fledgling United Nations. Then, from 1954 to 1963, he was a foreign correspondent, based in India, Poland and Japan. Covering India was a personal high point. But it was in Poland, whose Communist rulers expelled him in 1959, that he won a Pulitzer Prize.

It was also where he wrote an article for The New York Times Magazine that, among the thousands he produced, contained a passage that some quote to this day. He had been to the Nazi death camp at Auschwitz.

''And so,'' he wrote, ''there is no news to report from Auschwitz. There is merely the compulsion to write something about it, a compulsion that grows out of a restless feeling that to have visited Auschwitz and then turned away without having said or written anything would be a most grievous act of discourtesy to those who died there.''

The passion in that paragraph carried into his time as editor.

On his watch, in 1971, The Times published the so-called Pentagon Papers, a secret government history of the Vietnam War. That led to a landmark Supreme Court decision upholding the primacy of the press over government attempts to impose ''prior restraint'' on what it may print.

Under Mr. Rosenthal, the once ponderous Times became a far livelier paper. Major innovations were quickly copied at other newspapers, notably special sections on lifestyles and science that were introduced in the 1970's. But his biggest accomplishment, in his view, was keeping ''the paper straight,'' which meant keeping the news columns free of writing that he felt stumbled into editorial judgment.

On that score, he did not lack for critics. With his passion came dark moods and a soaring temper. Mr. Rosenthal made many journalists' careers. But he also undid some. Even now, years after his editorship, his defenders and his attackers talk about him with equal vehemence.

Mr. Rosenthal agreed yesterday that people tended not to be neutral about him. Many will be saddened by his departure from The Times. ''And,'' he said, ''there'll be people dancing.''

His column on the Op-Ed page, which first appeared on Jan. 6, 1987, often stirred similar emotions among readers. Over the years, recurring themes emerged: Israel's security needs, human rights violations around the world, this country's uphill war against drugs.

He focused on those themes once more for his final column. Then he turned to the mundane task of packing up mementos as well as memories. Off the wall came a framed government document from the 1950's attesting that the Canadian had become an American. It was, he said with a cough to beat back rising emotions, among his most valuable possessions.

[From the New York Times, Nov. 5, 1999]

A.M. ROSENTHAL OF THE NEW YORK TIMES

The departure of a valued colleague from The New York Times is not, as a rule, occasion for editorial comment. But the appearance today of A.M. Rosenthal's last column on the Op-Ed page requires an exception. Mr. Rosenthal's life and that of this newspaper have been braided together over a remarkable span—from World War II to the turning of the millennium. His talent and passionate ambition carried him on a personal journey from City College correspondent to executive editor, and his equally passionate devotion to quality journalism made him one of the principal architects of the modern New York Times.

Abe Rosenthal began his career at The Times as a 21-year-old cub reporter scratching for space in the metropolitan report, and he ended it as an Op-Ed page columnist noted for his commitment to political and religious freedom. In between he served as a correspondent at the United Nations and was based in three foreign countries winning a Pulitzer Price in 1960 for his reporting from Poland. He came home in 1963 to be metropolitan editor. In that role and in higher positions, he became a tireless advocate of opening the paper to the kind of vigorous writing and deep reporting that characterized his own work. As managing editor and executive editor, Abe Rosenthal was in charge of The Times's news operations for a total of 17 years.

Of his many contributions as an editor, two immediately come to mind. One was his role in the publication of the Pentagon Papers, the official documents tracing a quarter-century of missteps that entangled America in the Vietnam War. Though hardly alone among Times editors, Mr. Rosenthal was instrumental in mustering the arguments that led to the decision by our then publisher, Arthur Ochs Sulzberger, to publish the archive. That fateful decision helped illustrate the futile duplicity of American policy in Vietnam, strengthened the press's First Amendment guarantees and reinforced The Times's reputation as a guardian of the public interest.

The second achievement, more institutional in nature, was Mr. Rosenthal's central role in transforming The times from a two-section to a four-section newspaper with the introduction of a separate business section and new themed sections like SportsMonday, Weekend and Science Times. Though a journalist of the old school, Abe Rosenthal grasped that such features were necessary to broaden the paper's universe of readers. He insisted only that the writing, editing and

article selection measure up to The Times's traditional standards.

By his own admission, Abe Rosenthal could be ferocious in his pursuit and enforcement of those standards. Sometimes, indeed, debate about his management style competed for attention with his journalistic achievements. But the scale of this man's editorial accomplishments has come more fully into focus since he left the newsroom in 1986. It is now clear that he seeded the place with talent and helped ensure that future generations of Times writers and editors would hew to the principles of quality journalism.

Born in Canada, Mr. Rosenthal developed a deep love for New York City and a fierce affection for the democratic values and civil liberties of his adopted country. For the last 13 years, his lifelong interest in foreign affairs and his compassion for victims of political, ethnic or religious oppression in Tibet, China, Iran, Africa and Eastern Europe formed the spine of his Op-Ed columns. His strong, individualistic views and his bedrock journalistic convictions have informed his work as reporter, editor and columnist. His voice will continue to be a force on the issues that engaged him. And his commitment to journalism as an essential element in a democratic society will abide as part of the living heritage of the newspaper he loved and served for more than 55 years.

[From the New York Times, Nov. 5, 1999]

ON MY MIND: A.M. ROSENTHAL

PLEASE READ THIS COLUMN!

On Jan. 6, 1987, when The New York Times printed my first column, the headline I had written was: ''Please Read This Column!'' It was not just one journalist's message of the day, but every writer's prayer—come know me.

Sometimes I wanted to use it again. But I was smitten by seizures of modesty and decided twice might be a bit showy. Now I have the personal and journalistic excuse to set it down one more time.

This is the last column I will write for The Times and my last working day on the paper. I have no intention of stopping writing, journalistically or otherwise. And I am buoyed by the knowledge that I will be starting over.

Still, who could work his entire journalistic career—so far—for one paper and not leave with sadnesses, particularly when the paper is The Times? Our beloved, proud New York Times—ours, not mine or theirs, or yours, but ours, created by the talents and endeavor of its staff, the faithfulness of the publishing family and, as much as anything else, by the ethics and standards of its readers and their hunger for ever more information, of a range without limit.

Arrive in a foreign capital for the first time, call a government minister and give just your name. Ensues iciness. But add ''of the New York Times,'' and you expect to be invited right over and usually are; nice.

''Our proud New York Times''—sounds arrogant and is a little, why not? But the pride is individual as well as institutional. For members of the staff, news and business, the pride is in being important to the world's best paper—and hear?—and being able to stretch its creative reach. And there is pride knowing that even if we are not always honest enough with ourselves to achieve fairness, that is what we promise the readers, and the standard to which they must hold us.

I used to tell new reporters: The Times is far more flexible in writing styles than you might think, so don't button up your vest and go all stiff on us. But when it comes to the foundation—fairness—don't fool around with it, or we will come down on you.

Journalists often have to hurt people, just by reporting the facts. But they do not have to cause unnecessary cruelty, to run their rings across anybody's face for the pleasure of it—and that goes for critics, too.

When you finish a story, I would say, read it, substitute your name for the subject's. If you say, well, it would make me miserable, make my wife cry, but it has no innuendo, no unattributed pejorative remarks, no slap in the face for joy of slapping, it is news, not gutter gossip, and as a reporter I know the writer was fair, then give it to the copy desk. If not, try again—we don't want to be your cop.

Sometimes I have a nightmare that on a certain Wednesday—why Wednesday I don't know—The Times disappeared forever. I wake trembling; I know this paper could never be recreated. I will never tremble for the loss of any publication that has no enforced ethic of fairness.

Starting fresh—the idea frightened me. Then I realized I was not going alone. I would take my brain and decades of newspapering with me. And I understood many of us had done that on the paper—moving from one career to another.

First I was a stringer from City College, my most important career move. It got me inside a real paper and paid real money. Twelve dollars a week. at a time when City's free tuition was more than I could afford.

My second career was as a reporter in New York, with a police press pass, which cops were forever telling me to shove in my ear.

I got a two-week assignment at the brand-new United Nations, and stayed eight years, until got what I lusted for—a foreign post.

I served The Times in Communist Poland, for the first time encountering the suffocating intellectual blanket that is Communism's great weapon. In due time I was thrown out.

But mostly it was Asia. The four years in India excited me then and forever. Rosenthal, King of the Khyber Pass!

After nine years as a foreign correspondent, somebody decided I was too happy in Tokyo and nagged me into going home to be an editor. At first I did not like it, but I came to enjoy editing—once I became the top editor, Rosenthal, King of the Hill!

When I stepped down from that job, I started all over again as a Times Op-Ed columnist, paid to express my own opinions. If I had done that as a reporter or editor dealing with the news, I would have broken readers' trust that the news would be written and played straight.

Straight does not mean dull. It means straight. If you don't know what that means, you don't belong on this paper. Clear?

As a columnist, I discovered that there were passions in me I had not been aware of, lying under the smatterings of knowledge about everything that I had to collect as executive editor—including hockey and debentures, for heaven's sake.

Mostly the passions had to do with human rights, violations of—like African women having their genitals mutilated to keep them virgin, and Chinese and Tibetan political prisoners screaming their throats raw.

I wrote with anger at drug legitimizers and rationalizers, helping make criminals and destroying young minds, all the while with nauseating sanctimony.

As a correspondent, it was the Arab states, not Israel, that I wanted to cover. But they did not welcome resident Jewish correspondents. As a columnist, I felt fear for the whittling away of Israel strength by the Israelis, and still do.

I wrote about the persecution of Christians in China. When people, in astonishment, asked why, I replied, in astonishment, because it is happening, because the world, including American and European Christians and Jews, pays almost no attention, and that plain disgusts me.

The lassitude about Chinese Communist brutalities is part of the most nasty American reality of this past half-century. Never before have the U.S. government, business and public been willing, eager really, to praise and enrich tyranny, to crawl before it, to endanger our martial technology—and all of the hope (vain) of trade profit.

America is going through plump times. But economic strength is making us weaker in head and soul. We accept back without penalty a president who demeaned himself and us. We rain money on a Politburo that must rule by terror lest it lose its collective head.

I cannot promise to change all that. But I can say that I will keep trying and that I thank God for (a) making me an American citizen, (b) giving me that college-boy job on The Times, and (c) handing me the opportunity to make other columnists kick themselves when they see what I am writing, in this fresh start of my life.

BOSTON UNIVERSITY,
Boston, MA, January 14, 1999.

THE PULITZER PRIZE BOARD,
Columbia University, New York, NY.

DEAR SIRS: we respectfully nominate A.M Rosenthal for the 1998 Pultizer Prize for commentary, based on his columns dealing with the persecution of religious minorities around the world. We believe that such an award would be particularly fitting, coming as it would on the 50th anniversary of the Universal Declaration of Human Rights.

The Rosenthal columns were the first, remain the dominate, and until recently, were the singular media voices on the subject of worldwide religious persecution. They were instrumental in redefining the human rights agenda to include the interests of religious believers in general and vulnerable Christian communities in particular. They energized a broad interfaith movement previously lacking in knowledge about or confidence in their ability to speak up for the rights of persecuted religious minorities. They built bridges of trust between religious and secular human rights organizations, between Tibetan Buddhist, Baha'i, Jewish, Catholic, Evangelical and Mainline Protestant groups. They powerfully expanded the reach of America's human rights policies.

The Rosenthal columns or religious persecution began in 1997, but their culminating impact occurred during this year. The first and last 1998 columns, ''Feeling Clean Again'' (February 6), ''Gift for Americans'' (November 27), and ''Keeping the Spotlight'' (December 25), broadly validated the moral and political premises of the movement against religious persecution, and defined its agenda. Such 1998 Rosenthal columns as ''A Tour of China'' (March 13) and ''Judgment of Beijing'' (July 3), forced the U.S.-China summit meeting to deal with the persecution of house church Christians and Tibetan Buddhists to a far greater degree than either government wished. The outrage expressed by Mr. Rosenthal in his May 1 column, ''Clinton's Fudge Factory,'' leveraged the story of New York Times correspondent Elaine Sciolino into a reshaped, reenergized political debate over religious persecution legislation. See also his April 24 column, ''Clinton Policies Explained.'' Mr. Rosenthal's May 12 column, ''The Simple Question,'' framed the House debate on the Freedom From Religious Persecution Act and played an instrumental role in the overwhelming House vote that adopted it. His August 7 and October 2 columns, ''Freedom From Religious Persecution: The Struggle Continues'' and ''They Will Find Out,'' played key roles in rescuing the Senate version of the legislation from a demise that

had been confidently predicted by the Administration and the business community.

We respectfully submit that the Rosenthal columns on religious persecution merit a Pulitzer Prize for Commentary if only because they broke new ground on an important subject, and did so with accuracy, forcefulness and passion. We also believe that related and perhaps even stronger grounds exist for the award to be granted.

First, the Rosenthal columns enhanced the institutional credibility of the press with many religious believers who had seen the mainline press as patronizing if not hostile. They were read and cherished by millions, not only in the New York Times, but also through mass recirculation in denominational newsletters, religious broadcasts and actual worship services. They educated many to the power and virtue of a free press.

Next, the columns played a central role in the enactment of major, potentially historic legislation. As nothing else, they galvanized and sustained the remarkable interfaith movement that supported the legislation, and ensured Congressional attentiveness to the issue. It can be categorically stated: Without the Rosenthal columns, the International Religious Freedom Act of 1998 would not have become law.

Finally, we believe that the Rosenthal columns legitimated today's increasing coverage of anti-Christian persecutions in countries like India, Pakistan and Indonesia, and generated new perspectives on the coverage of countries ranging from China to Egypt, from Sudan to Vietnam. Until the Rosenthal columns, the notion of Christians as victims rather than victimizers didn't seem quite plausible to many editors and reporters. The fact that it now does is a powerful tribute to what the columns have done.

Seldom in our experience has a single voice been so instrumental in raising public consciousness on an issue of such major importance. The passion and integrity of the Rosenthal columns on religious persecution have transformed American policies and institutions, and religious liberty throughout the world. American journalism has long been honored by Mr. Rosenthal's work, but never more so than by his pathbreaking columns on a subject that he, often alone, moved a nation to care about and to act.

Very truly yours,

Elie Wiesel, Virgil C. Dechant, Rabbi Norman Lamm, John Cardinal O'Connor, Rabbi Alexander Schindler, R. Lamar Vest, Wei Jingsheng, William Bennett, Lodi G. Gyari, Bette Bao Lord, Paige Patterson, James M. Stanton, Commissioner Robert A. Watson.

We thank him for his commitment to the people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair, without it being considered a precedent for changing the proper sequence of Special Orders, and pursuant to the unanimous consent request of the majority leader, will recognize the gentleman from California (Mr. FARR) for 1 hour without prejudice to the resumption of 5-minute Special Orders.

TRIBUTE TO LATE HON. GEORGE BROWN

Mr. FARR of California. Mr. Speaker, I appreciate the consideration given to this special order.

As my colleagues have heard, the legislature is coming to an end. And it would be a very sad end if we did not pay tribute to one of the most distinguished California citizens to ever serve in the United States Congress, our beloved George Brown, who passed away this year as a Member of the House.

So tonight, surrounded by his family and friends, Members of the California delegation and other States have come forward and would like to express their feelings and sympathies for the great life of a great man who served longer in the United States Congress than any other Member in California history.

I am very pleased to be able to share this hour of colloquy, hour of memorial resolutions with the gentleman from California (Mr. LEWIS), my esteemed colleague and very close friend of George Brown and his neighbor.

I would like to call upon the gentleman from California (Mr. LEWIS) first. And then we are going to be sharing, as Members want to express their concerns and try to keep their remarks to several minutes. Because we can see there are many people here that want to speak.

Mr. Speaker, "I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas." JFK quote.

He was a great man and a distinguished public servant; 45 years of public service; 36 years in the House, the longest serving Congress member in California history.

Won first election—as Monterey Park city councilman and became mayor one year later. Member of the California State Legislature. First elected to U.S. Congress in 1962. Unlike other politicians, he did not read the polls—No other member of Congress cast more "unsafe" votes—and live to tell the tale.

Best known for his work on science and technology: "With his passing, science and technology lost its most knowledgeable advocate, he embraced the future by articulating a vision that includes harnessing science and technology to achieve sustainable development."

George Brown quote from NY Times interview: "From my earliest days, I was fascinated by science. I was fascinated by a utopian vision of what the world could be like. I've thought that science could be the basis for a better world, and that's what I've been trying to do all these years."

He had the foresight to champion the creation of the Environmental Protection Agency, the Office of Technology Assessment, and the Office of Science and Technology Policy. Recognized leader in forming the institutional framework for science and technology in the Federal Government. Led effort to move the National Science Foundation into more active roles in engineering, science, education and the development of advanced technologies.

Had the vision, courage and integrity to have remained ahead of the mainstream: In the California Assembly authored first bill in the nation to ban lead in gasoline. Recognized, early on: the environmental hazards of burning fossil fuels; the destructive effect of freon; the importance of keeping space development under civilian control; and the necessity of monitoring global climate change. In due time, Congress adopted these issues as legislation.

Style of argument: Brown cultivated a polite and courtly style of argument. His reliance on reason coupled with the respect he showed his opponents made him a very effective advocate and enabled him to form alliances with people of all political parties.

Human qualities: Cigar chomping, rumpled suit, pacifist, social democrat, fierce idealist, a maverick. At UCLA, he helped create some of the first cooperative student housing and was first to integrate campus housing by rooming with Tom Bradley—the future Mayor of Los Angeles. Joined the Army despite his pacifist leanings in order to serve the country.

Inspiration to California Democrats: The current California Democratic party is replete with individuals who worked on Brown's several campaigns, including Senator Boxer. Dean of the California Congressional Delegation. He was our hero, and our inspiration to continue championing good and fighting evil.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS), my colleague and esteemed friend, the chair of the Republican delegation from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

Mr. Speaker, I am wondering, let me ask my colleague a question if I can by way of procedure. I know there are Members on both sides who are asking for time, etcetera, and I have made a list and so on. Should we kind of divide this time in a way that I can distribute time and ask the Chair for unanimous consent for that?

Mr. FARR of California. I have no objection.

The SPEAKER pro tempore. Under the procedures of this Special Order, the gentleman from California (Mr. FARR) controls the time and distributes the time.

Mr. LEWIS of California. If he yields half of it to me, then can I distribute it?

The SPEAKER pro tempore. There is an hour on the clock, which is reserved to designees of the Leadership; and the Chair will not recognize for subdivisions of that hour.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate any colleague yielding.

Let me say that I intend to make the bulk of my remarks at the end of this session. But let us begin by indicating to the body that oft times, especially with the advent of C-SPAN, the public very often sees only the confrontation between the two sides of the aisle, debate swirling around very important issues that sometimes takes us to the extreme of expression and confrontations that is the presumed norm.

I must say that, over the years, I have had great pleasure in the fact that George Brown and I found working together that we had so much more in common than our people who watch us on the football team of politics in our home district territory would ever realize.

For the Members' information, our commonality for me began when as a young person just out of college entering the life insurance business, I settled in a small town outside of Los Angeles for a couple of years to be close to the big city.

The local assemblyman at that point in time was one George Brown, and that is when I first heard of this legislator and friend to be.

Not too long after that, George sought his seat in the U.S. House of Representatives and served there for a distinguished period of time that was a part of his distinguished career. He then sought a seat, or at least the nomination, in the U.S. Senate and left the Congress for a while.

In the meantime, I had returned home to San Bernardino County. It was years after that initial contact in Monterey Park that I got to know George as a candidate for the Congress in our territory near his former home in Colton, California. He served in the Congress for a period of time before I arrived here. But over the years, we developed a very, very close personal relationship.

Most importantly, we developed a professional relationship, as well. And as his wife Marta that is in the chambers with us in person but in spirit in many more ways, along with her family, it is my privilege to share with my colleagues the thoughts of some of the Members on this side of the aisle as we distribute time to them and we very much look forward to hearing a great deal about this wonderful character who was a wonderful diplomat as well as ambassador here in the House of Representatives.

□ 2030

GENERAL LEAVE

Mr. FARR of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR of California. Mr. Speaker, I yield to the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. FARR) for setting aside this time to give tribute and salute to George Brown, our House colleague who died earlier this year after representing his constituents in California for more than 34 years. He is survived, as it has been said, by his wife Marta and their six children. She is here with us in the Chamber and we are delighted to see her. Many of us are aware of Marta's strong interest in public service and her commitment to social change. I know that she will continue Mr. Brown's legacy of boundless curiosity and forging public policy that advances social justice.

Representative Brown, who became one of my best friends here, embodied the best that the House of Representatives has to offer. He was committed to public service, fought for social justice and became the Nation's foremost policymaker when it came to science and technology. He was a good listener and that is one of the reasons he was so successful. He took the time to understand his constituents and their problems. He believed that lawmakers should do their own homework, learn the issues and know how the issues affect their constituents. He prided himself on doing his own research.

I served with Mr. Brown on the House Committee on Science and the longer we served together, the greater my admiration for him grew. As chairman of the House Committee on Science during the 102nd and 103rd Congresses, he reached the pinnacle of his legislative career. He was the recognized leader in forming the institutional framework for science and technology in the Federal Government. He worked tirelessly to expand the scope of NASA as one of the Federal Government's lead agencies in promoting research and development.

In the 1960s and again in the 1980s, he helped restructure the National Science Foundation by directing that agency into more active roles in engineering and the development of advanced technologies. He also redirected the National Science Foundation to become the Nation's lead Federal agency in promoting mathematics, science, engineering and technology. His efforts have had a lasting impact on the development of these disciplines for kindergarten through 12th graders and more. He recognized that today's students will become tomorrow's workers. To be successful, these students must be technologically fluent and that will not happen without a strong commitment from the Federal Government working hand in hand and in coordination with the private sector. He understood that fact.

He developed legislation that established the Office of Science and Technology to focus the Nation's policy in these areas. In the 1970s, he championed the creation of the Environmental Protection Agency and the Office of Technology Assessment. He also directed the Congress toward groundbreaking initiatives for energy and resource conservation, sustainable agriculture, wind energy, global climate change research and space exploration. Throughout his career, he enthusiastically supported both piloted space flight and nonpiloted space exploration.

Before being elected to the Congress, he was the mayor of Monterey Park, California. Later he was elected to the California State Assembly where he worked on labor and environmental legislation. In fact, he introduced the first bill in the Nation to ban lead in gasoline in the early 1960s.

He was elected to the House of Representatives in 1962 where he fought for passage of the Civil Rights Act of 1964 and worked hard to stop U.S. participation in the Vietnam War. His career of public service spanned more than 40 years. He truly was a legislator for all seasons and the breadth of his interests spanned many horizons, from space exploration to social justice.

Mr. Speaker, this House is a better place because George Brown served here. I am proud to have known him and the country has moved forward because of his service in this Chamber.

Mr. FARR of California. Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS) who will yield to other Members from California.

Mr. LEWIS of California. I appreciate my colleague yielding. It is my privilege to yield to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. I thank the gentleman for yielding. George Brown. I am a conservative. George was an unabashed liberal. We were opposites in this business. But most importantly, George was my friend. I certainly put forth my sympathy to the family, Marta, everyone that is here today.

I have got to talk about my first memory of George Brown. I was in our family restaurant in Corona, California. George was our Congressman. I think I was probably 11 years old or so at the time. He was sitting there with my father having a drink and smoking a cigar, arguing the issues of the day, very passionately. George was a very passionate person, someone who believed very strongly in what he believed in and would advocate those issues and beliefs very ably here on the floor.

As I mentioned, he was my Member of Congress since I was a young boy and all through high school. As a young Republican campaigning for people against George in the early days, I remember one time George giving me a call one time and we had an opponent running against him. He called me up and he said, ''Can you get that guy to run against me one more time?'' He always had a sense of humor. He always participated in debates.

I have got to admit, one time we had a debate and he came up to the podium, and he looked over at the audience and he said, ''Look. I'm overweight, I probably smoke too much, I don't dress as well as I should.'' Everybody looked at him aghast. He looked over at his opponent and said, ''I just thought I'd point that out before my opponent did.''

He had a great way about him. He endeared himself to all of us. George, most importantly, was known for the business that he conducted here in the House. Certainly he was a chairman of the Committee on Science, was known as Mr. Science. He had a deep love of

science and the institutional framework for science and technology in this government.

In the mid 1960s and again in the 1980s, he led an effort to restructure and strengthen the National Science Foundation, moving the agency into a much more active role in engineering, science education and the development of advanced technologies. He developed legislation shaping the permanent science advisory mechanism in the Executive Office of the President, which was established in 1976 as the Office of Science and Technology Policy. He was a strong proponent of environmental preservation and of science and technology in the service of society.

I would like to think that George would be very interested in what we are trying to do in technology advancement for clean air, especially as regards components such as sulfur and other issues that we are advocating today in this House.

George championed the establishment of the EPA and the Office of Technology Assessment in the early 1970s. He helped advance initiatives for energy and resource conservation, sustainable agriculture, national information systems, advanced technology development, and just so much more in the integration of technology in education.

He enthusiastically supported both manned and unmanned space exploration. What an advocate on the floor. We worked together as Californians for the space program and he was an excellent advocate for space. His reputation on the Committee on Science helped him bring NASA participation and support for schools and businesses throughout the Nation and his district.

On a personal level, we put together a Salton Sea Advisory Committee. Five of us originally, myself, the gentleman from California (Mr. LEWIS), Sonny Bono, George, and the gentleman from California (Mr. HUNTER). I remember one meeting that we had in Sonny Bono's office, this was in December, just before Christmas, we were all talking about what we were going to do to save the Salton Sea. This was something that was so passionate to George. He loved the sea. He was raised there by the sea, in Imperial County, and wanted to see something done for future generations for the sea and for the environment around the sea.

Shortly thereafter, Sonny was gone, and now George. So two out of the five original members of the Salton Sea Advisory Committee are gone. But now we have new Members. Mary Bono is working hard to see the future of the sea and the rest of us. It is, I think, our responsibility in George's memory to make sure that we do the right thing and to make sure that the Salton Sea is something that everyone has a pleasant memory of in the future.

In his memory, we are renaming the Salinity Laboratory on the UCR campus the George Brown Salinity Laboratory. It is just one small example of his work but one that really shows his devotion to science and his love of what we are trying to do in this country to make it a better country for all of us as Americans.

Mr. Speaker, with that I would like to say I am going to miss George, I am going to miss seeing George right over here on the House floor on a daily basis and going over and having our daily chats, chitchatting about what is going on at home in the Inland Empire and working with him to make the Inland Empire a better place. But I will work hard to make our area a better place for our constituents. It is going to be more difficult without George.

Mr. FARR of California. Mr. Speaker, as you can see, George Brown was not only loved in southern California but also in other States. The gentlewoman from California (Ms. WOOLSEY) is from Marin County. He was loved in the north as well as in the south.

Ms. WOOLSEY. I thank the gentleman for yielding.

Mr. Speaker, I rise to pay tribute to a most wonderful person, our former colleague and friend George Brown. I want to reflect on a comment from a poem that was read at Representative Brown's memorial service by his son. For me, the essence of that poem, ''How Do You Live Your Dash,'' sums up why I so respected and admired George Brown. George's ''dash,'' those 79 years between his birth in 1920 and his passing this summer is the symbol of a person who witnessed, participated in and positively impacted many, many of the most important events of modern American life.

Years before George formally entered political life, he was actively engaged in the social and political issues facing our country. As a student at UCLA, George helped create cooperative student housing. He worked to break the racial color barrier by organizing the first integrated campus housing in the late 1930s. He was a conscientious objector during World War II and worked in a Civilian Conservation Corps camp in Oregon. Yet later he decided to join the military and served as a second lieutenant in the Army.

After the war, returning to Los Angeles, he continued his work, organizing city workers and calling for veterans housing.

In 1964, George was elected to the Monterey Park city council. Building on his past activism, his political work and style was a true reflection of his values. Always the gentleman legislator, as a city councilman, in the State Assembly or as a Member of this body, George was guided by his belief that through persuasion and reason, he could and he would build a better society.

As we all know, Mr. Brown cultivated a polite and courtly style of debate, often tinged with humor and with self-deprecation. He believed that public service was a noble calling and he demonstrated in his ensuing 45 plus years in the political arena that one individual can make a difference.

In 1962, he was elected to Congress. Thirty years later, I was fortunate to be elected to Congress and to become a member of his Committee on Science when he was the chair. In recent years, as chair of the Committee on Science, George began to challenge the scientific community to reflect on the social implications of their work and the ethical obligations that come with their high standing.

Every day I mourn the loss of this gentleman leader. I sometimes wonder how we will meet the demands of a world and a Nation challenged by the need for a technically educated workforce without our leader George Brown.

☐ 2045

Mr. Speaker, it was truly an honor to have known and served with George. His years spent on Earth, his dash, as his son reminded us, is the story and legacy of a wonderful person.

Mr. FARR of California. Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Science.

Mr. HOUGHTON. Mr. Speaker, I thank the gentlemen from California, Mr. FARR and Mr. LEWIS, for organizing this tribute to George Brown.

Mr. Speaker, I am tempted to speak for the RECORD, as we all do here, and go over the distinguished points of George's life as he was a Member here in terms of his support for NASA and the Space Station before it was even a priority with him, what he did in setting up the Office of Science and Technology in the White House, and of a whole variety of things; the environment, and a series of things like this.

But I would really like to, and I am not sure whether that is appropriate, but I would really like to speak to Marta and the family, because I felt that George was sort of one of my family when I was here.

I am a Republican. I did not go to the Democratic Caucuses. I many times voted differently from George, but I always felt I was on the same wave length.

I will mention, what specifically keyed this to me was our fight for the Office of Technology Assessment. We both believed in science, George coming from a more academic and political atmosphere, and I coming from more of a business atmosphere. But we believed that it was important that this body have a scientific group that interpreted new science as it was coming along, new technology that was being applied in the workplace, so we could gear our legislation more to those things which are important for our future, rather than becoming just a commodity producer, which we would rapidly regret. So we fought the good fight and we lost, but in the losing of it, we forged a tremendous bond of respect.

First of all, about his appreciation of science, I am a big believer of this. I

think all of us here feel this way, that the reason our country is what it is is obviously because of the human endeavor and the enterprise, but the ability to take chances and to reach out.

Marta, you and your family come from the State that is doing it all now. What is happening in Silicon Valley is the thing that is going to determine the next century, and maybe even beyond that. He believed in that. He thought it was endemic, he thought it was important for the very lives we were leading every single day, not just scientists, not just politicians, but schoolchildren.

But also, it gave me an opportunity to know George as a human being. There are a lot of people we meet around here that are sort of different. They have their own ideas. They are all bright, they are all motivated, they are all decent, they have high integrity, but there is always something special about the chemistry between people. I always felt I had this with George.

I really do not have a lot more to say, other than thank you for letting us share the life of your husband with us.

Mr. FARR of California. Mr. Speaker, I thank the gentleman for those very dear and personal remarks.

I yield to another colleague, the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I would like to thank my California colleague and the chairman of the Democratic delegation of the State of California for yielding.

I think for the American people that are tuned in this evening and listening to us after hours, that this is a little different than what they are exposed to during the day in our very heated debates that sometimes generate more heat than cast light. But this is a very worthy program to tune into. This is when I think Members of the House really rise and exhibit the best of what America is about, when we recognize the humanity that is here in this Chamber.

So tonight we not only mourn the passing of our colleague, our beautiful colleague, that beautiful human being, George Brown, but it is an evening for remembering him, as well. So I join with not only my California colleagues, and the gentleman from California (Mr. LEWIS), who has so ably chaired the Republican delegation from California, a very dear friend of George Brown's, but the rest of our colleagues in remembering him and what he brought not only to this institution but to the country that we have all come here to serve.

All of the States are memorialized here in our Chamber, and we from California are so proud of this son of California, and what he did here.

I do not think that there are really any words that do justice to George Brown, because he was a very full figure, not only physically, but he had so many dimensions to him. Every time I look at this desk, I picture him leaning there. No matter how full this Chamber ever was, I knew exactly where to find George Brown, to either ask him how he was, what was happening in the committee, what he thought about a vote, or just in general, how everything was. You would find him leaning right there.

I always thought, a penny for your thoughts, George. What do you think as you look out at us? Because he was a very knowing individual.

I have the privilege of coming onto the Committee on Science as a freshman, and before I was sworn in we had something in California, and I am trying to remember, was it the California Institute that had put it together, and it was the day after the elections.

I went to George Brown because he was there at this, where all of the Californians were gathered, and said, I would like to serve on your committee. And he put that wonderful arm around me, he was like a big California bear with a big heart, and said, I would love to have you on my committee, Anna. And that was my welcome. It is not that easy to get on a committee in the Congress, and what a welcome that was.

You could find George Brown. Unlike any other person in this House, if you wanted to find him at his office, you could. When you walked in the door, he was not returning other people's phone calls. Do Members know what he was doing? He was reading the journals, the technical journals, the scientific journals that had been published, that masterful intellect applied to the good of our Nation.

In 1961 President John Kennedy challenged America to put a human being on the moon before the end of 1969. That was a huge challenge. We take for granted what happened, and thousands of individuals throughout our country listened to this call and took him up on his seriousness, and what that meant not only for our Nation but what it meant for us as a Nation, as a global leader. Many worked in their own significant way to accomplish that feat. One of them was George Brown.

How indebted we are to him as a Nation for his leadership and his courage. Many of us, as I said, take these decisions for granted and these accomplishments for granted once they take place, but it always takes individuals of courage and vision to make them happen.

I think George Brown always made sure that we were looking toward the stars. I think that just as we had Americans that walked on the moon that were launched, that he today is walking among the stars and in heaven. He certainly has earned it. We are, indeed, a grateful body, and we are grateful to his constituents for sending him to us. He was a gentle man, he was a refined legislator, he was a proud Californian, he was a compassionate human being, and I thought that when God called him, that he could really answer and say, you didn't call me to be successful, you called me to be faithful. And that he was, to what he believed in and what was best in humanity. He never left anyone behind.

I think for that reason, Marta, he walks now not only among the stars but among the saints. Thank you for sharing George Brown with us. God bless you, George. I will always picture you standing there at that bench, and I do not think that there is anyone that could ever come into the Congress to take your place. You will always, always be a Member here and part of our delegation.

Mr. FARR of California. I thank the gentlewoman very much.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentlewoman from California (Mrs. BONO), George Brown's colleague in concern about the Salton Sea and many other things.

Mrs. BONO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, inscribed in an office building in California's capital Elipse is the quote, ''Give me men to match my mountains.'' My late friend and colleague, George Brown, was such a man. No one knows this better than his wife, Marta, his family, friends, and his loyal staff members.

Today our thoughts and prayers are with George and those who loved him. A great man of modest origins, George was neither pretentious nor physically imposing, but the strength of his convictions and the depth of his intellect combined with an unwavering belief in the ideals that he held dear made him a welcome ally and formidable foe.

Although I do not share his liberal philosophy, I share the commitment he had to fighting for what he believed was right. George Brown recalled a more gentle era of politics and, indeed, society. With his rumpled trappings and self-effacing style, always courteous in debate, George could charm his opponents while subtly skewering them with the scientific precision of his arguments.

Although he was the physical embodiment of the old cigar-smoking pol, he always talked straight and let the public know where he stood on the issues. He never hid his politics within smoke-filled back rooms, nor did he waiver from his liberal beliefs that defined his political philosophy.

George was also ahead of his time. Long before it was politically correct, he was a champion of civil rights. Decades before the Vietnam War, he was a conscientious objector to wars, although he later served his country as a second lieutenant in the Army.

Before the term ''environmentalist'' became fashionable, he worked in the Civilian Conservation Corps in Oregon, and, of course, as a scientist he advocated the use of science to improve not only the lives of everyday Americans, but also to lay the foundation for a better world.

As the distinguished chairman of the House Committee on Science, he never

allowed partisanship to interfere with the integrity of his scientific principles. Really, that is the greatest lesson I learned from this wonderful man. Regardless of the issue, George believed that you could work together to find common ground, that rancor and political attacks had no place in a civilized institution. He may have disagreed with your politics, but he would never treat you as less of a person because of your political differences.

I had the privilege and pleasure of working closely with George on an issue that was close to both of our hearts, saving California's Salton Sea. George probably knew more about the problems facing the sea and the relevant science than any other Member of Congress. As a scientist, he probably knew more than many of the experts who are currently working to find a solution to this looming environmental crisis.

He was born and raised near the sea, and spent years studying its decline. He was passionate in his belief that he could restore it. That is what I will always remember about George Brown, his quiet certitude that our democratic system can be made to work if we are only willing to work together. George proved time and time again that you could find common ground to advance a common good. I will try to honor his memory by following his example.

I want to say also to his widow, Marta, I remember sharing many, many a plane ride with George and Marta Brown between the Capitol here and Southern California. Every time we flew together George and Marta had a wonderful embrace for me after I lost my husband, Sonny.

I have spoken with Marta on a couple of occasions about her beliefs and her dedication to public service and her dedication to also restoring the Salton Sea. I just want to wish Marta Brown the greatest of strength and God speed in the years ahead.

Mr. FARR of California. I thank the gentlewoman from California (Mrs. BONO) for those beautiful remarks. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OBEY), a person on whose shoulders the last few days of this session are dependent, the ranking member of the Committee on Appropriations, the former chair, a good friend of George Brown.

Mr. OBEY. I thank the gentleman for yielding, Mr. Speaker.

I remember the first time I ever met George Brown. I came in that door on the side of the Chamber. I was elected on April Fools Day of 1969. George came up to me right after Easter when we got back, he came up to me, and I had not met him before. He said, my friend, Bob Kastenmeier, tells me you are to be trusted. And I did not know what that meant, I did not know who he was. But that was his way of introducing himself to me.

I asked Bob Kastenmeier the next time I saw Bob, I said, tell me about this George Brown fellow. Well, he said, he is a gutsy antiwar hero.

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He is a staunch defender of civil liberties, he is an absolute believer in civil rights and, he said, he is the ultimate rational man. And I think that really does describe George.

He did yeoman's service here as a Member of the Committee on Agriculture and as chairman of the Committee on Science. But I think his greatest service to the House was simply his uncompromising political integrity and his uncompromising disdain for hypocrisy, which we often find a lot of in this town.

I often kidded George. I told him that he reminded me of that wonderful character on British television, ''Rumpold of the Bailey,'' the British barrister who constantly defended unpopular causes, much to the chagrin of his law firm and his wife. And I told George that I thought not only did he have a slight resemblance to Leo McKern, the actor who played the part, but that also his style was the same, because he really did stand up for causes and people who had very few defenders, and that is what this institution often needs.

Mr. Speaker, I think this place will miss him greatly. He was a superb public servant. He served California well. He served the country well, and I am grateful that after he ran for the Senate, he returned to this body and graced us with his many years of service, teaching us every day that public interest comes before private interest.

Mr. FARR of California. Mr. Speaker, I now yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from Michigan (Mr. EHLERS), a member of the Committee on Science.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS) for yielding me this time. It is a pleasure to speak here about George Brown, even though it is also tinged with a good deal of sadness.

I knew about George Brown a long time before I met him. In fact, my first acquaintance with him dates back to the mid-1970s when, as a nuclear physicist and a county commissioner, I was appointed by the American Physical Society to the committee to select science fellows for Members of Congress. One of those we selected ended up working for Mr. Brown. I got to know him quite well and talked to him regularly and he has described Congressman Brown in very glowing terms. And after that, for some 20 years, I watched the progress of Mr. Brown and the wisdom of his work through the science media.

It was a pleasure when I first arrived in the Congress in early 1994 to make his personal acquaintance and to serve on the Committee on Science at the time, he was chairman. Also, I worked with him after the time when he became the ranking member and the Republicans were chairing that committee.

He was a striking person in many ways, and I found him to be a many-dimensioned person. He was a gracious gentleman. At the same time, he was a great scholar. He was also a wise leader. In spite of that, he was self-deprecating and self-effacing. A marvelous person in so many different ways.

Mr. Speaker, what particularly struck me was that in a very partisan institution, he was willing to ignore partisanship to help a new Member to discuss the history of specific issues and also acquaint me with the history of previous actions of the Congress.

He was also very willing and freely gave of his advice to me as a newcomer and I found his advice very helpful. He was a great person in so many ways and so many senses of that phrase. We rarely meet great people throughout our lives, but when we do we immediately know that we are in the presence of greatness and we also appreciate it. That is the way it was with George Brown.

As I said, he was a great man. I knew it when I first met him. I appreciated it even more as I continued to work with him on science issues and we had a great kinship on that score.

I certainly appreciated him, the work he did, and particularly his friendship with me and his attitude towards the Congress and towards advancement of science. We will all miss him greatly, and I will especially miss him. I just wanted to take this opportunity to express my condolences to the members of the family and to thank them for their willingness to share George with us.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS) very much, and I appreciate the remarks and I know the family does as well.

Mr. Speaker, the great State of Texas may be a big State, but it is not as big as the heart of George Brown. To speak for that State is the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, unlike so many of our colleagues who have spoken, I did not know George Brown before I came to Congress. And when I learned that I would have the opportunity to work alongside the late George Brown, who served for 32 years on the Committee on Science, 32½ years of his 18 terms, I was quite pleased and thrilled, having been a high school science teacher for the time during the 1960s and watching and knowing of what his work consisted.

While Congressman Brown served as chairman of the Committee on Science during from 1991 to 1994 and ranking member from 1995 to 1999, he worked diligently to create the institutional framework necessary to bring science and technology into the Federal Government. And from the mid-1960s on, he led an effort to restructure and strengthen the National Science Foundation, moving the agency into much more active roles in engineering, science education, and the development of advanced technologies.

I guess I came to Congress expecting more camaraderie and less partisanship

than what I have seen so far, but for me it was George Brown who I will remember as the statesman and the consensus builder on the Committee on Science. And in addition to that, he developed legislation that created what later became the President's Office of Science and Technology Policy and pushed for the development of the Environmental Protection Agency and the Office of Technology Assessment.

Throughout his impeccable congressional career, George Brown pushed the envelope not only for NASA and the human space exploration program, but also, as we have already heard, for civil rights, the environment, even family farmers throughout the Nation.

While I was only able to spend 2½ years getting to know George, the stories that I have heard continue to make me smile and will keep him in my memory for an awful long time. Chairman George Brown cannot be replaced and he will be sorely missed by everyone who knew him. Thank you and God bless the family.

Mr. FARR of California. Mr. Speaker, I now yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield in turn to our colleague from California (Mr. ROHRABACHER) who served several years with George Brown on the Committee on Science.

Mr. ROHRABACHER. Mr. Speaker, I have to say, everybody has got a hushed tone tonight remembering George. I do not remember him in hushed tones. This guy was a fellow. He just had so much life about him and there was so much goodness about George Brown and he was right out front on everything.

He was certainly my chairman, he was my colleague, and he was a friend. He was chairman of the Committee on Science, and I was on the committee. I am still on that committee. I am now the chairman of the Subcommittee on Space and Aeronautics, and every time he would come over once he lost that spot, we would always be happy because he was a treasure house of information. He was an institutional treasure to our committee and we have already felt his loss.

Let me note this: that as chairman of the Committee on Science, when he was chairman of the Committee on Science, he exercised his authority as fairly as anyone who has ever served in this body. So although we had some disagreements, he always, always was fair. I do not even remember one incident where I was angry at him because he did not give a Member the right amount of time or tried to cut off debate or short-circuit someone else.

Now, we disagreed about things, but he was always right up front. In fact, one of the great things we know about George is that he never apologized about being a liberal. This man was unabashedly, no, he was bashed around for being a liberal I am sure, but he was unapologetic about being someone who believed that government should help people. That was his basic philosophy. Government should help people. It was as simple as that, because George Brown loved people.

Mr. Speaker, I am a conservative. I have a little bit more suspicion about government, and that is my philosophy. George respected that. There was no situation where he thought he was above me because he wanted to help people through government and I am suspicious of government. No, he was an honest Democrat as well. He believed in democracy and believed in this system.

Again, he treated differences, as we have heard today, with a great sense of humor. With his sense of humor he made this a really nice place and a good decent place to work and added a great deal to the cooperation we have had in this body.

Let me just say that being someone of a different philosophy, we ran people against George Brown. Here we are commemorating George Brown. Let us remember those of us on this side of the body ran good candidates against George Brown every time. Marta will certainly, I know, confirm that he had some tough races out there. But guess what? George Brown won every single race. Every time we put somebody up against him, his constituents returned him because as we found out, George Brown was much beloved by his constituents, Republicans and Democrats alike. We had trouble getting the Republicans not to vote for George Brown, they loved him so much.

The reason they loved him out there is because he loved them. There was a great deal of goodness and love in George Brown's heart. He was a man of integrity and that could be seen for sure early on in his life. We could see it here. But if one studies George Brown's history early on in his life, he took a stand against the war in Vietnam. He was one of the first ones to recognize what a great threat that was to the body. He did not wait for it to become trendy. He did not wait for it to become some issue where it was going to do him some good. George Brown was out fighting the war in Vietnam long before some of us realized.

Some of us on the conservative end of the spectrum say to ourselves perhaps that war went on too long before we realized where it was going and where it was taking America. Perhaps George Brown, who had the goodness and intent of trying to help his country, maybe he had some realizations in his heart. Plus, he was a champion of civil rights early on.

And, Mr. Speaker, I will say this as a conservative. Some of us who are suspicious of government have to look at people like George Brown and his early struggles in the civil rights movement and we have to feel a little bit embarrassed that it was an unabashed liberal who was taking care of protecting people's human and civil rights in this country. Some of us should have learned a lot from George Brown in that regard.

Finally, let me just say that George Brown, even though we ran candidates against him, never held a grudge. I remember him telling me right down there standing with me, ''Well, you fellows always run somebody against me. And even though Dave Dreier likes me a lot, I know that we are friends, but don't worry. We are going to work all of these things out and we have all of these things we have accomplish together.'' And sure enough, he never held a grudge and we worked so well together.

Mr. Speaker, he is going to be missed. I am going to miss him. Everybody else here is going to miss him. He loved us. He loved his constituents. He loved his country. He had a good heart and we loved him. I loved George Brown very much and I am going to miss him very much. My heart goes out to Marta and just condolences to the whole family. And I guess I cannot say much more except all of the great things that he did in the Committee on Science, they are going to go on helping America for a long, long time. A lot of people are going to benefit from those things. They are not going to remember George's name, because in 50 years none of our names are going to be remembered. But he has done a lot of good for this country and certainly those of us who served with him will never forget George Brown.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from California (Mr. ROHRABACHER).

Mr. Speaker, I would like to now call on the gentlewoman from California (Mrs. CAPPS). She and the other gentlewoman from California (Mrs. BONO) share something in common with Marta Brown. They have all lost their husbands while serving in Congress.

Mrs. CAPPS. Mr. Speaker, with a sad heart and also a smile of remembrance, I rise to pay tribute to our beloved colleague, George Brown. I am very proud and honored to join my friends on the floor this evening to honor George's memory and to celebrate his life.

Let me first express my condolences to Marta, who joins us in the Chamber tonight, and to everyone else in George's large and wonderful family.

Mr. Speaker, I would say to her, ''Marta, I have been in your shoes. It is not easy. But your spirit and your strength in this difficult time have inspired all of us.''

I also want to send a special word of condolence to George's staff. I know from my own experience, and that of my staff who were Walter's staff, that they are doubly burdened. For 3 months they have been grieving for their leader, while at the same time working hard to continue to serve the people of the 42nd District in California, and my heart is with them.

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Mr. Speaker, this House has many national leaders. This House has many warm and decent people. George Brown was both. He was first elected during

the Kennedy administration when Americans heard our young President promise that we would put a man on the moon.

Throughout his illustrious career, few Members in this body contributed as much to our successful space program as did George Brown. With his leadership on the Committee on Science, George kept our space policy on track. He knew that unlocking the secrets of the heaven's would benefit our quality of life here on earth.

As a fellow Californian who once served on his committee, I was awed by and so grateful for George's visionary work on the space program. He made such a mark on science education which will be felt for generations to come in every elementary science class and secondary science class throughout this country.

He made such a mark on the space exploration of this country which I think of each time I watch a launch at Vandenberg Air Force base in my district. Each time, I think of George Brown. That legacy will continue as long as there is space exploration in this country and even in this world.

But, Mr. Speaker, as effective a Member as George was, he was an even better person. I will never forget the kindness and generosity that George extended to Walter and me when we first came to Washington in 1997. I will surely never forget George's warmth and comfort when Walter passed away.

After George died, many of us flew together to his memorial service in his district. Democrats, Republicans, Members from around the Nation, senior and junior Members alike, we spent many hours reminiscing about George.

We remembered his legislative victories. We again admired his dedication to the people of his district. We laughed about his sense of humor. We recalled his warmth and decency.

Being in his district for this memorial service gave me such a sense of the high esteem with which he was held and is held by the people he represented for so many years. This group that came together to memorialize him was such a diverse group that he held together throughout the decades that he served the 42nd District. This is a legacy also which is a model for our country and for the leaders in this House.

All of us in Congress join with George's family and staff and his constituents to mourn his passing. We will all miss him. But we are also thankful to God for the precious time we had with him. We ask God's continued blessing upon his family, his precious family, his district, and the legacy which he leaves to us all.

Mr. FARR of California. Mr. Speaker, I yield to the distinguished gentlewoman from San Francisco, California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California (Mr. FARR) for calling this special order. It gives us an opportunity to say a goodbye to George Brown, which is heartfelt, nonetheless very sad.

Mr. Speaker, it is with great sadness that we mark the passing of our dear friend. But this is a very special special order because it brings some closure. I do not think a day goes by that most of us do not come to this floor to vote when we expect to see George sitting in his regular seat.

As we are accustomed to saying here in the House, I wish to associate myself with the remarks of my colleagues who have spoken before, because I think they have spoken very, very eloquently, and it is a compliment to be associated with their remarks because this man was very special. But I think that our colleagues have captured him.

As I associate myself with the remarks of my colleagues, I will just say a few personal remarks. George was an inspiration. We all know that. He was a leader, as has been acknowledged. He was an intellectual, and we all benefit from that. He was also a politician, a political leader. In California, he is a legend and has been, really, for a very long time.

When he, representing the district that he did, took the stands that he did, it was with great courage. It would be easy for someone from my district to speak out against the Vietnam War and to vote against the military spending at the time. It was not easy for George Brown. But he did it anyway.

We all benefited from the fact that he was a student of nuclear engineering. When I say ''we all'', I mean every person in this country, because we had the benefit of his thinking. We continue to have the benefit of his thinking because of the legacy that he has left.

Not a day, again, goes by when we do not miss him, do not think we are going to see him in the Chamber, but we do have the benefit of the ideas that he has put forth and the leadership that he has provided and the way he has translated all of the ideas that he has in his knowledge of science and engineering into public policy, into a better future for our country.

He was genuinely interested and curious about all complex issues and the debates that swirled around the development of modern science and technology. So he was a very fascinating man.

I want to say that we will miss his sense of humor, his civility, his deep commitment to public service. I, and the constituents of my district join me, extend our deepest sympathy to Marta, to the Brown family, to his constituents, to his staff, to his friends, all of whose lives he touched, enriched, and changed for the better.

With that and with great love, George Brown, we will miss you every single day we serve here, and we will always be grateful for the memory you have provided for us.

Mr. Speaker, it is with great sadness that we mark the passing of a dear friend and a long-time Member of this Chamber, George E. Brown, Jr.

George was an inspiration. I know the constituents of his San Bernardino district remember him with great fondness and respect. He was a distinguished and dedicated public servant who served in this House with great dignity for 35 years. In my opinion, George should be remembered, above all, as a man of high principle. He was first elected in 1962 and frequently spoke out against excessive military spending and America's involvement in the Vietnam War. He maintained his principles and, during the tumult and shouting of the 1960s, routinely voted against military spending for a war that was, in his careful and considered analysis, an unjust intervention.

Since his days as a student of nuclear engineering and, later, as a working physicist, George took a strong and focused interest in modern technology, the advancement of the sciences, and, of course, space exploration. As Chairman and ranking Democrat of the House Science Committee, he helped shape and define the evolution of the National Science Foundation, NASA's International Space Station, and other significant endeavors that engaged the best minds in American science and technology.

George was genuinely interested in, and curious about, all of the complex issues and debates that have swirled around the development of modern science and technology. His palpable excitement belied his position as the oldest Member of the House in the 106th Congress. For many years, he served ably as Dean of the California Congressional delegation, and George leaves us with the distinction of representing California longer than any other member of Congress. His influence and legacy will continue to define the work of this body.

We will miss George, his principled ways, his sense of humor, his civility, and his deep commitment to public service.

I would like to extend my deepest sympathy to his widow, Marta Macias Brown, to the Brown family, his constituents, and his friends and colleagues, all of whose lives he touched, enriched, and changed.

Mr. FARR of California. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) very much for those beautiful words.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS) for a moment.

Mr. LEWIS of California. Mr. Speaker, I am proud to yield to the gentleman from Long Beach, California (Mr. HORN).

Mr. HORN. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. FARR) for this very moving ceremony. So many people have said so many wonderful things. They are all true.

I first met George Brown in January of 1963 when he came here as a new, fresh, young congressman. I was then the legislative assistant to Senator Thomas H. Kuchel, the senior Senator and Republican whip from California. He called me and said, ''Steve, I hear a lot of good things about this fine young man. Go over and give him my best.'' And I did. George Brown was, from the very beginning, noted by people in the House as well as some in the Senate that he was a very decent person.

When I came back here 30 years later we renewed our acquaintanceship. I used to kid George ''One of these days, George, the Legislature is going to redistrict you into some suburb of Las Vegas''. That was because he had kept moving east from his first election in Los Angeles County. When George came to the House, he served on the Committee on Agriculture. In those days, Los Angeles County was the No. 1 Agricultural County in the Nation in the value of its crops.

Over 18 terms in the House, George moved from Monterey Park, then Colton, then Riverside, then Colton, then Riverside, then San Bernardino, then Riverside, then San Bernardino again. No other Member of the House has had that many different residences moving in one direction as George was able to do.

As the gentleman from California (Mr. ROHRABACHER) said, the Republicans always sought to defeat him, but they never could because he loved his constituency, and they loved him.

Then in 1993, George was in a key role to help pull the California delegation together. His ally in this was Carlos Morehead on the Republican side. In 1993, when Jane Harman and I came here as two freshmen, we were designated to work with George and Carlos on the executive committee of the Democratic and Republican delegations. Our aim was to work for economic development in southern California.

From March 1988, 400,000 people had been let go in the aerospace industry. We had a major crisis as a result of the end of the Cold War and the economic recession. Carlos and George pulled the delegation together. The delegation had not met for 8 years and it was a disgrace. The two Senators would come over at all our meetings. Ron Packard, Carlos, and George led the delegation to work together.

George always had a great sense of humor. When I saw him on the floor, I once asked him what he thought of some of the Democratic Presidential candidates in the 1960s. George's sense of humor was terrific, which I cannot repeat here, but it gets down to a one word description for each one, and it was not the same word for each one. He had suitably captured the personality, values, and interests that seemed to be encompassed in that word. I would smile through the rest of the day.

We have heard every Member practically talk about his decency and his scholarship. That was true. He was a real human being. He is the kind of person we do not forget, and he is the kind of person we ought to have in the House of Representatives, one who stands up for his principles yet can work with everybody else who might have different principles.

Nini and I extend condolences to the family. We worked with a great legend. We all respected him.

Ms. LEE. Mr. Speaker, I rise to honor the memory of my good friend and colleague, George E. Brown, Jr. George was a man of many accomplishments, who led by work and example. He was the leader of the California delegation and led our state on many issues of importance. George came to the U.S. Congress after an illustrious career in California where he had served as a city councilman and mayor of Monterey Park. Subsequently, he was elected to the California State Assembly where he authored legislation providing public employees the right to bargain collectively and foreshadowing his many environmental efforts in the House; he also introduced the first ban of lead in gasoline in the nation.

George was elected to the U.S. Congress in 1962. He was in the forefront of fighting for passage of the 1964 Civil Rights Act and many of us remember that picture of him with President Johnson, Martin, Robert Kennedy and Rosa Parks hanging in his office. He protested the Vietnam war when it was not popular to do so. To give leadership to the anti-Vietnam war movement and the Civil Rights movement, George made a brave but unsuccessful run for the Senate in 1970. As a result of the census reapportionment, a new House seat was created and in 1972, George returned to his beloved Congress to serve the people in communities where he was raised, the Inland Empire.

In the 1960's and again in the 80's George guided the National Science Foundation into a more progressive position, refocusing it on engineering, science education, and the development of advanced technologies. George Brown became Chairman of the House Science Committee in 1991. While Chair, he was an innovator in both Science and Technology, always looking to the future and to our nation's progress as the path to follow. He brought creativity and innovation to the House Science Committee and he was instrumental in creating what we now think of as the framework for science and technology in the federal government.

Ahead of the mainstream, he shaped our nation's science for good by bringing its oversight into the Executive Office and establishing the Office of Science and Technology Policy. By doing so, he made science and technology truly a national priority which provided the impetus to the research initiatives so important to the great research and technology enterprises in our country and especially in California.

I was fortunate to have developed a friendship with George when we worked closely together on California base conversions, an issue of the utmost importance to my district, the 9th Congressional District of California. George was a tenacious fighter for the public good; many of us could learn from his great example. Even when the Democrats lost their majority in 1994, George remained influential.

Earlier, I mentioned George's leadership in the California Assembly on environmental protections issues. In the House, he also recognized the importance of protecting the ozone layer and other elements of environmental health as well as championing the creation of the Environmental Protection Agency and the Office of Technology Assessment.

His courtly style and hard work made him a favorite in his district; he respected all points of view and all parties respected him in turn, making him a formidable advocate and effective negotiator on the side of the liberal and moderate. I will truly miss my friend George Brown.

Ms. ROYBAL-ALLARD. Mr. Speaker, as Chair of the Congressional Hispanic Caucus and former Chair of the California Democratic Congressional Delegation, I want to express my deepest sympathies for the passing of my colleague, friend, and mentor, George Brown.

It has been a true honor to serve with George in the House of Representatives. I have had the privilege of knowing George for years, since he served with my father, Congressman Edward R. Roybal, for over two decades.

George was the oldest current House member and the longest serving member of the House or Senate in the history of the state of California, as well as the top Democratic Member on the House Science Committee and a senior member of the House Agriculture Committee.

George served as Chairman of the House Science Committee during the 102nd and 103rd Congresses and was probably best known in Congress for his work on the science and technology issues under his committee's jurisdiction. As an energetic proponent of the environment, Brown championed the establishment of the Environmental Protection Agency and the Office of Technology Assessment in the early 1970s.

George was a person of integrity, intelligence, and respect, who never failed to stand up for what he believed. George worked to bring down the color barrier at the University of California, Los Angeles by organizing the first integrated campus housing in the late 1930's. In the 1940's he helped organize Los Angeles city workers. Later, in Congress, Brown fought for passage of the landmark 1964 Civil Rights Act. He was one of the first outspoken critics of the Vietnam War and stood his ground by voting against every defense spending bill during the Vietnam era.

George was also friend and role model to me and countless other members of Congress and staff. George paved the way for me to become the first woman to chair the California Democratic Congressional Delegation. Not confined to the dictates of seniority or protocol, George encouraged me to run for the chairmanship, recognizing the value of inclusion and promoting new leadership.

George was an outstanding legislator, individual, and friend and he will be dearly missed.

Mr. MARTINEZ. Mr. Speaker, George Brown, Jr., who passed away last summer, was not only a colleague but a personal friend. I had the privilege of working with George for many years, here in the House of Representatives and in the City of Monterey Park. During this time, I grew to respect him as a man of great integrity, commitment, and kindness.

I first met George in the mid-1950s when he was the head of the Democratic Club and a City Councilman in Monterey Park. At that time, I did not know that I would someday have the opportunity to represent many of the same people. Because of his tremendous knowledge and enthusiasm for public service, he developed a bond with the residents of Monterey Park that lasts to this day. George was a leader who inspired people to community service. He had the ability to fill meeting halls to capacity. His unwavering commitment to public service earned him the respect and loyalty of the people of his district and the surrounding communities.

Many may remember when George was arrested on the steps of the Capitol for joining with a group of Quakers in a protest against the war in Vietnam. I have often thought about this as an example of his commitment to his beliefs. Even on points where there was disagreement, George's integrity was never in question. He was firm in his convictions and willing to stand up for his beliefs.

I have no doubt that George Brown will be remembered as one of California's greatest statesmen. His presence in this Chamber is missed.

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to pay tribute to both a colleague and friend, George Brown.

I had the privilege of serving on the Science Committee during George's tenure as Chairman, and valued the opportunity to learn from his leadership. George and I worked together on many occasions in support of interests important to our native southern California. George may forever be remembered for his ability to bring together all Californians serving in Congress.

George believed in the power of persuasion to settle differences. He was polite and courteous in his treatment of everyone on both sides of the aisle. George prided himself on working hard for his district. He was dedicated to the people of southern California and he will be greatly missed.

In George Brown, this institution has lost a distinguished Member of Congress, a faithful public servant, and a good man. George will be greatly missed, not only as a tireless advocate for the people of California's 42nd Congressional District, but as a close friend to those so fortunate to have known him.

Mr. MOAKLEY. Mr. Speaker, I would like to thank Representatives LEWIS and FARR for reserving this time to allow Members an opportunity to pay tribute and to honor the memory of our dear friend, the gentleman from California, George Brown. I am moved by their reserving this special order. In a genuine expression of bipartisanship, their efforts serve to highlight one of George Browns' greatest strengths. Throughout his long and distinguished career, George Brown worked diligently to build bonds with other Members from across the aisle. More often than not, he succeeded in these efforts. His constituents were wise to re-elect him to 18 terms of service in this House. George represented the 42nd District of California with distinction and honor. Serving the needs of his constituents, and making certain that their interests were protected were the basis of his long, distinguished commitment to public service.

Throughout my tenure in the House as well as my service on the Rules Committee—as Chairman and Ranking Member, I had the opportunity to work with George on a number of issues. His interest and leadership on issues as science and technology was strong. He had a wonderful ability to explain new technologies in ways that even those of us less aware of these technologies could understand their potential impacts. He was especially proud of his work to ensure that our schools would benefit from new advances in the area of educational technology. George Brown understood the importance of public education, he worked tirelessly to make certain that our young people would have access to the exciting worlds of science and technology.

In closing, Mr. Speaker, I am thankful that we have had this opportunity to honor George Brown. We will surely miss his presence and his civility here in the People's House. While he is no longer with us, his commitment to his constituents and to his nation will ensure that he is remembered for generations to come.

Farewell my friend.

Mr. HALL of Texas. Mr. Speaker, like the other Members who have spoken here before me, I have a special affection for our dearest friend George Brown. But unlike these other Members, I also have a special privilege—the privilege of attempting to carry on Congressman Brown's work as Ranking Democrat on the Science Committee.

This is no easy task. More than anyone I could ever imagine, George Brown was born to be the Chairman of the Science, Space, and Technology Committee.

Two fires burned within George. On the one hand, he devoted his mediations and tailored his actions toward achieving justice and equality for all those in our society. In his 35th year in Congress, he continued to take the time to read the works of the ancients—Greek, Roman, Eastern and Middle Eastern—as well as the works of modern philosophers. He, like them, was obsessed with the concept of social justice and how its pursuit would contribute to an ideal society.

But even more so, George loved science, space, and technology. George came from humble beginnings in Holtville—in the heart of the hot and arid farmlands of the Imperial Valley. From the beginning George was an extraordinary student. He graduated from high school at the age of sixteen and, in the year or two between high school and UCLA, read nearly every book in the Holtville library. Science moved him even then. He studied the stars, read technical journals, and devoured science fiction. One can imagine, perhaps as H.G. Wells ''War of the Worlds'' played on the radio, a seventeen-year-old scholar with the body of a linebacker, looking up at the crystal-clear desert starlight and imagining the wonders of human and robotic space exploration.

George would speak about two Members of Congress who taught him valuable lessons about the institution. In his freshman term, George served on the Education Committee. The Chairman, Adam Clayton Powell, quickly learned of George's interest in post-secondary education and training and gave the freshman Member from California the lead on re-authorization of many of those programs. It was a lesson George never forgot and one he often repeated with young, inexperienced Members of the Science Committee from both sides of the aisle. There are many current and former Members of the Science Committee who can point to significant legislative accomplishments that they are able to claim because of Chairman Brown's modesty and support.

He also talked frequently about my fellow Texan Olin ''Tiger'' Teague, who chaired the Science Committee in the 1970s. There were no two Members of the Democratic Caucus further apart politically than George and Tiger. But each had a deep respect for the other's fairness and honesty. Tiger developed the habit, when confronted with a thorny political problem on the Committee, of calling George into his office and asking for George's advice on how to solve the problem most justly. George himself adopted this practice. Any Member—conservative or liberal, Republican or Democrat—who was sincere and had done his or her homework would get a fair hearing from Chairman Brown. In my ten Congresses, I have not seen a Chairman who was more fair to his Committee Members than George Brown was.

George leaves a large and important legacy in this institution and particularly in the Science Committee. I am honored both to be part of these remembrances this evening and to have a small role in trying to continue that legacy.

Ms. LOFGREN. Mr. Speaker, I only served with George for a few years from January 1995 until his passing just a short time ago. But while I served with George just these few years, I will never forget this man whose influence on our country and its future is so profound.

In truth, I first became aware of George Brown while working for my predecessor in office, Congressman Don Edwards. At the time the nation faced the challenge of war in Southeast Asia. Early on, American opinion was not divided as it would later be. There were few who were willing to question. Don Edwards was one of them. So was George Brown. Whatever your view of America's role in that conflict, the courage to do one's job as a legislator—to ask the tough questions and to stand for what one believed in does command respect. George Brown was always a person who would stand up for what he believed in.

When I was elected to the 104th Congress, I asked to be assigned to the Science Committee where George Brown was serving as ranking Member. At the time all of the former Chairmen of Committees were adjusting to new roles in the minority. Some former Chairmen, quite frankly, had a hard time coping with this new role. George Brown rose to the occasion. Who wouldn't rather be in charge? But he understood the important role he could play by using his knowledge as a resource for the whole Congress—both Democrats and Republicans. I came to understand that if George Brown gave advice on Science Policy it was a good bet that it was exactly what our country should do. And while the 104th Congress definitely had its rocky moments, as the months wore on it became clear that George Brown was commanding respect on both sides of the aisle.

I doubt that all of the scientists in America understand how much is owed to George for his vision and understanding about science. Can all the American citizens fully appreciate how much poorer would be our economy and our quality of life—how much more limited our future—without the years of advocacy for sound science policies that George led? But George did his work not for the glory, but for the satisfaction that he was making a difference. He was never afraid to do what was right and he was smart enough to figure out, in the complex field of science, what was the correct course.

George was widely rumored over the years to be contemplating retirement. When I first heard that rumor, I wrote him an impassioned multi-page letter asking him to stay and letting him know how much his leadership on science would not only be missed in this House, but in the world. He listened to those of us who begged him to stay and we were grateful.

Shortly before George left us, he told the Democratic Members of the California Delegation that we could count on him: He would run for reelection and would do his best to win. While he didn't get that chance, I will always

remember that he was willing to go full measure for America. Whether as a soldier in World War II or a soldier in the effort to support science, he served his country with valor, with intelligence and with distinction. I am grateful to him for his many kindnesses to me, his wit and his wisdom, for the example he made for younger Members of his House about integrity and commitment as well as for his love and dedication to his family.

I miss George a great deal. Despite all of the talented people working on Science Issues in this House, none of us can claim the experience, expertise and wise leadership that George gave the country in this arena. We will try to fill in the gaps his parting left. I, for one, feel grateful to have known him to have served with him. I feel lucky that I had the change to tell him how much I admired him while he was still living. I miss him and join with my colleague tonight in honoring his life and his contributions.

Mr. SENSENBRENNER. Mr. Speaker, America lost its foremost science advocate, a statesman, and a tremendous human being when my colleague and friend, George Brown, passed away. As a Member and later Chairman and Ranking Member of the Science Committee, George was a forceful and tireless advocate for science. Whether it was protecting a science account from attack or pushing the newest area of research, George was a true friend to the science community. I feel both sadness and inspiration when I look up to see George's likeness watching over the proceedings in the Science Committee's hearing room. Sadness at our loss but inspired to continue building upon the successes George made possible. I am hopeful that his portrait will serve as a constant reminder of George's commitment to our nation's science programs, his leadership, his friendship, his humor, and his compassion throughout his many years of service.

George's integrity and the strength of his word were never in doubt. He could be a forceful advocate when needed and a bipartisan friend when deserved. Perhaps what was most remarkable about George was that even after sitting through hundreds and hundreds of presentations by researchers around the nation, George never lost a genuine delight in hearing of new science breakthroughs that would revolutionize tomorrow's world. When tomorrow's scientists find their next breakthrough discovery, I know in my heart that George will delight in their achievement.

Although George served for eighteen terms in the House, a remarkable achievement in itself, I don't think he ever enjoyed looking back as much as he cherished looking ahead. Earlier this year, George remarked, ''I've thought that science could be the basis for a better world, and that's what I've been trying to do all these years.'' Certainly George made his own strong contribution to making this a better world.

I ask all Members, to keep George's spirit alive as we proceed with our responsibilities during this Congress—with his respect for this institution foremost in our minds and his joy of public service and his friendship in our hearts.

IN HONOR OF THE LATE GEORGE BROWN

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I would like to join with my colleagues in extending this time of special orders in honor of our great friend, George Brown. I have not had the opportunity to hear any of the statements other than the very eloquent one by the gentleman from Long Beach, California (Mr. HORN).

I will say scholarship and decency, which is what the gentleman from California (Mr. HORN) just raised, obviously are two words that come to mind. George Brown was also one of the kindest and warmest human beings I have ever known.

He regularly was on this side and stood there and would make interesting observations about the institution because, as we all know, he served longer than any other Californian here in the Congress. We were very pleased that he set that record, even though many of us, the gentleman from California (Mr. LEWIS) and I for a decade and a half tried to cut that short. In many ways, I am glad that we were not able to cut that short because he did so much for our State and the country.

I suspect that, during the hour, people talked about his involvement in the space program. I will tell my colleagues that, representing Pasadena, California, the home of the jet propulsion laboratory, along with the gentleman from California (Mr. ROGAN) is a very important thing. George Brown regularly provided the kind of inspiration that was needed by our constituents at the jet propulsion lab.

He often was the beneficiary, and I know that his widow Marta is following this so I should not raise it, but she may not have known he occasionally smoked a cigar. He would often take cigars from all of us here. I was pleased whenever I could to pass one to him, even though I know Marta was never pleased with the fact that we did pass our cigars to George. I know it did provide him with a great deal of pleasure.

I also want to say, as the gentleman from California (Mr. HORN) did, that, in the California delegation, he spent a great deal of time working to bring our delegation together. He had a very healthy view of his role in public service. I know there are many people who were always wringing their hands about this place at the prospect of maybe losing the next election.

One time Karen Tumulty, who is now a very prominent reporter with Time Magazine, in her early days with the Los Angeles Times in the 1980s, I remember her telling me she had gone up to Mr. Brown and talked about the fact that the Republicans were putting together this huge campaign against him. He was sitting behind us in the Speaker's Lobby, and she posed the question to him, why it was that he was not that concerned. He looked up and said, ''Gosh, the absolute worst thing that could happen is I could lose the election.'' Meaning that he had a very healthy perspective on this place, what representative government was all about, and what public service was about.

□ 2130

I will tell my colleagues that it is still, to this day, with a great deal of sadness that I think about the fact that we are no longer going to be seeing him in this chamber.

So I would like to say that I will miss him greatly, and my condolences go, as I know my colleagues have extended them, to his tremendously huge and wonderful family, the members we got to meet when we went to the service for George out in California and saw a number of them back here.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, what a wise man, what a good man George Brown was. We have heard tonight of his efforts to create or strengthen various scientific institutions, the National Science Foundation, the White House Science Advisers, OSTP, the EPA, the Office of Technology Assessment, NASA. He advanced international scientific cooperation, energy conservation, alternative sources of energy, sustainable agriculture, peaceful uses of space. He advanced the cause of peace around the world.

I have long respected George Brown for these contributions as a scientist and as a Member of Congress before I got to know him. When I was a AAAS fellow in Congress in the early 1980s, George Brown served as a positive example to us fellows of how government policy could be used in the support and advancement of science. His personal enthusiasm and passion for science and for the people associated with the fields of science has left perhaps the most lasting impression of George Brown around the country.

And, Mr. Speaker, I will provide for the RECORD some of the remarks of other AAAS fellows who have shared with me their memories of George Brown.

George Brown understood the big picture of how science could benefit the world and how to construct government mechanisms and policy to appropriately support it. I believe no one in Washington had a better understanding of the role and the nature of science.

George Brown was a champion of science, but he was not an apologist for science. It was George who challenged both the scientific community and its policy advocates to be self-aware, yes, to be self-critical lest we continue to, in his words, develop an uncritical faith that where science leads us is where we want to go.

George Brown did not shy away from asking the tough questions. He pointed out that ''It is still difficult to draw a correlation between scientific and technological capability on the one hand and quality of life on the other.'' He reminded us that if we look at the world as a whole, it is not at all clear that advances in science and technology have translated into sustainable advances in the quality of life for the majority of the human race.

He warned us of the potential societal crisis fueled by a deteriorating public education system, unaffordable health care, ethnic polarization, urban violence, environmental degradation, and the lack of political courage and leadership necessary for decisive action on these matters. Representative George E. Brown, Jr. had that kind of courage and he demonstrated it in each of his 18 terms in this House. George Brown never took the easy or politically expedient way. What a model he provided for us.

Mr. Speaker, I yield to my good friend and colleague, the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding to me, and I would like to add, Marta, that I felt that memorializing your husband, our colleague, in statuary hall, where he was surrounded by some of the greatest leaders of this country, was appropriate because in my mind George was as great as all of them and he should be in that hall. He is in this hall here tonight, because as long as someone is in our minds, they are here.

We have heard from his colleagues tonight. What a great father for the State of California. I do not think anybody understood what made California tick, what made California the center of so many excellences, the center of excellence for electronics, the center of excellence for the entertainment industry, the center of excellence for agriculture, and so many kinds of agriculture. Agriculture in the north and agriculture in the south, totally different. From row crops to forestry, to all kinds of diversity, he understood the diversity of the people who live in the great State of California.

When we talked to him, we realized that we were talking to someone who grasped the entire potential of California. I think he saw that defined through science and technology; that if we could take enough good minds and put those good minds to practical use on beautiful places, like the diversity, the geographical diversity, that we cannot help but solve problems. And those problems are not just solved for California, they are solved for the United States. And when they are solved for the United States, they are solved for the world.

Just a remarkable human being in our time. Every one of us was touched by him. I think that he was, indeed, one of the fathers of modern California, and for that we will forever remember him as one of the great statues of this great state.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I am not going to use 5 minutes, because my colleagues have spoken much more eloquently than I could, and I also want to thank the gentleman from Wisconsin (Mr. RYAN) for delaying his long awaited special order to allow us to complete this California memory of George Brown.

I think that the centerpiece and the trademark of our democracy in this House of Representatives is civility. The ability of the Members of the House to have close quarters combat on values and on philosophy and yet remain civil to each other. And I think if there was anything that George Brown taught not only the delegation but the rest of the House it was civility.

He did all the things that my colleagues have mentioned. When we on the Republican side ran strong, tough races against him, the next time we saw him, he would be smiling, he would be beaming, he would be winning, and he would not hold it against you. It was an amazing lesson. I think it was a lesson that we all ourselves tried to emulate, and in that sense he threw a rock into the pond and caused a lot of ripples of civility. He helped us to be better to each other.

He was a guy with a great good sense of humor. I recall when we were working the Salton Sea project, which he was a real champion of, and he worked with the gentleman from California (Mr. LEWIS), the gentleman from California (Mr. BONO), the gentlewoman from California (Mrs. Bono), the gentleman from California (Mr. CALVERT), and myself on that project, and one day, on an extremely windy day, we went to the Salton Sea, which is fed by the most polluted river in North America, the New River, when the waves were about two feet high and had whitecaps, and we were to go out with the Secretary of the Interior Mr. Babbitt on these air boats and tour the Salton Sea.

As George and I walked down to our air boat, I noticed that our two seats were extremely low to the water. And I looked over at the Secretary of the Interior's air boat and he had a high seat that was about five feet off the water. And I asked a friend of mine, who was a native there in Imperial Valley, and George Brown was born in Imperial Valley, in Holtville, he was really a man of the desert, and I asked this friend of mine, do you want to go out? And he says, not on your life. He said, this is the most polluted stuff in North America. He said, you are going to be catching that stuff right in your teeth.

So I suggested to the fish and wildlife people, who were conducting the tour, that maybe George and I might be allowed to ride in the air boat that had the high seats. And, of course, we were denied that privilege. That went to Mr. Babbitt. So George says, looks like they have a little something less for us. They provided us with a single sheet of plastic. I think we were to pull up like a makeshift windshield to keep ourselves from getting too much of this pollution in the teeth.

We got lots of it that day. And here was George Brown, a guy who had immense prestige and political power, and could have been doing a lot more comfortable things than riding around in the Salton Sea with whitecaps coming over the stern of this little air boat, because he believed in this cause of cleaning up the Salton Sea. That was George Brown. A man of great civility, a man with great good humor.

And I like to think of George as being a real product of this country that he came from, this Imperial County, Imperial Valley. He was born in Holtville, the carrot capital of the world, where they do a lot of farming, where people are hard working Americans, they are open and straightforward, and they all seem to have a sense of humor. And I think that George acceded to that desert sense of humor in the best way, brought it to this House and this chamber, and helped to make us all better people and better representatives because of it.

So I want to thank the gentleman from California (Mr. FARR) and the gentleman from California (Mr. LEWIS) for putting on this very important service. George Brown is going to live for a long time in our hearts and I think in our actions, because I think we are all going to be a little better to each other. We are still going to have those tough differences, and I think that is good, but we have a democracy that is a model for the rest of the world because we are civil, and George Brown was a leader in civility.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. RYAN) for delaying his special order to give us the opportunity to pay tribute to someone who in my short time here in the United States Congress was a mentor and a tutor.

George Brown made the Committee on Science fun. And I guess that is something that I should be admonished not to say, because in this House we are about the people's business and we are serious in doing that business. But what I found in George Brown is that he loved science, but he had a holistic approach to science. Even though his expertise or his advocacy or his interests might have fallen in one area of science versus another, he was open enough to be able to take those groups of us on the Committee on Science that had our own interests in perhaps ensuring that there was more unmanned

space flight than manned space flight, because I come from the manned space flight advocacy group with the Johnson Space Center and the shuttles that have been going back and forth, but he could explain to each of us the fact that there was value in whatever that we advocated; that science was holistic; that we all should be participating in it.

He could advocate for the space center and he could advocate for the real sciences, the earth sciences, which he was a strong proponent of. He was a person who was able to balance the interests of the members of the Committee on Science in explaining that we had a responsibility to promote this Nation as a world leader in all of the sciences. So this was not just a race to space, of which he had much more history than I would have had, but this was to be able to fulfill our promise and our responsibility in man's creativity with research and experimentation and outreach in the areas of science and physics and other areas that the Committee on Science covered.

I found that he had a wry sense of humor, he had a good sense of humor, he had an enormous sense of humor. And we could always rely upon ranking member Brown, for I did not have the privilege of serving with him as chairman, although that never got the best of him, but he would always, in a moment when it got too serious in our committee, there was ranking member Brown with the appropriate sense of humor to bring us all back to the reality that we are simply mere mortals and this too will pass.

To his family, to his dear family and his dear wife, we thank them in particular for sharing him for all these many years. I thank him particularly for his openness to then freshmen members in the class of 1995, the 104th Congress, the Congress that Democrats were not in control. There was a small class of 13 of us that came in as Democrats, and I was fortunate enough to secure a place on the Committee on Science. Mr. Brown served, even in my lowest ranking position, as a welcoming mentor and a person who was encouraging of the work that we had to do together on the Committee on Science.

I am grateful for his leadership and I was even more grateful to listen to the many colleagues who were able to share some of the wider ranges of George Brown, both his civility, his kindness, his concern about world peace, which I think is most insightful of the kind of man he was, and then to hear in the memorial service his commitment to politics, as Senator BOXER related how he provided her support in a very competitive race.

He was a man of his word. He was a man who showed great love for his Nation and great love for his avocation, which was a love of science and research.

□ 2145

I close simply to say that something very special comes to mind of Mr. Brown, and that is that he was a person that I thought exhibited the concept that all of us aspire to, that we are one human race. Before it became in vogue to talk about one race, maybe to talk about diversity, maybe to talk about openness and equality and opportunity, I could sense that, even though just knowing Mr. Brown starting in my first term of Congress, that he lived his life as being part of one human race. For he lived it on the floor of the House. He lived it in the Committee on Science. And, as I have heard from my colleagues, he has obviously lived it all of his political life.

I am thankful for that. And, for that reason, I owe a debt of gratitude for the fact that he served us and that he served this Nation. We will be forever grateful. Thank you, ranking member Brown, Chairman Brown, for your leadership.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

Mr. GOODLING. Mr. Speaker, George and I, of course, served here together for 24 years. A more perfect gentleman you would not find. His humor was mentioned by several, and I would have to say that he had the best one-liners and the shortest one-liners that I have ever heard. Usually two or three words and he could crack you up pretty quickly.

But I have to tell my colleagues, George also had everybody in the House of Representatives believing that I have a chronic cold condition. He was on the fourth floor; and, of course, I got on the second floor. And I could smell the elevator coming and I was ready. Because, of course, it was not only George on the elevator. It was his famous cigar on the elevator with him.

Well, I get a violent migraine from cigar smoke. So every time the door opened, I would, of course, pull out my handkerchief, put it on my nose, and hold it over my nose until I got down. Everybody would say, ''Do you have a cold?'' ''Do you have a cold?'' ''Yes, I have a cold.'' And then we would get over to the trolley and I would wait to see where he was going to sit, and then I would go to the opposite end, depending on which end the wind was blowing. And sure enough, when we got to this side, of course, we had to get back on the elevator again; and I would pull out my handkerchief, ride on the elevator with the handkerchief over my nose. And everybody would say, ''Do you have a cold?'' ''Do you have a cold?'' ''Yes, I have a cold.''

So they are wonderful memories of George. And he would want us to be rather light in paying a tribute. Because, of course, as I said, he was a good humored man and it only took a couple of words until he had you laughing.

Mr. Speaker, I yield the balance of my time to the dean, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman very much for yielding by way of closing this wonderful time we have had together in tribute to our colleague, George Brown.

I mentioned at the beginning of my remarks earlier that George and I, although we had our differences politically from time to time, had so much more in common.

The fact that we often talked about being born on the wrong side of the tracks, he in Imperial County, and I was raised in San Bernardino. But shortly after in his youth, he was in Colton, considered by us, like my home, on the wrong side of the tracks. He and I shared our love and our pride as being alumni of the wonderful university in West Los Angeles, UCLA.

George also had this great passion for science but particularly for NASA. When I had the chance to work with NASA's programming in the VA-HUD subcommittee, George and I professionally spent a lot of time together and many times in the battle here on the floor to save the Space Station and the future work of NASA.

Beyond that, we had a great love for water. I remember George talking about riding in an innertube down the Alamo River where he had his first experience with the Salton Sea and his commitment to that project as a part of his youth but also as a part of his very intense and life-long love for the environment.

George kind of closed his days and my memory of him when Arlene and I went and visited Marta and George at their new home in San Bernardino where they had been there for a while but they built this huge, huge fish pond, the largest fish pond I have ever seen in my life and the first time, and I told friends of this, the first time I ever heard George even raise a doubt about his commitment for the environment.

Because suddenly, and he spent a lot of money for these fish, etc., and they were planning to have tea out there and watch the fish grow; and the birds from the outside began flying in in their natural way, and stealing his fish.

George was a brilliant, wonderful, talented guy and a reflection of the best of America's House, the people's House, the House of Representatives.

I appreciate all of my colleagues joining with us tonight and sharing this evening with Marta and her family.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. BASS) is recognized for 5 minutes.

(Mr. BASS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Wisconsin. Mr. Speaker, it is very fitting that I think this follows up after the tribute to George Brown, who was a veteran here for our country, because Thursday is Veterans Day. And Veterans Day is a day to honor great sacrifices, celebrate heroic victories, and it serves as a reminder that the daily freedoms many of us too often take for granted came at a very painful price.

It is a day of national respect and reflection that serves as an annual remind that we can never forget those who have allowed us to enjoy that which we have today. More than ever, we must rededicate ourselves to honor the lives and memories of those who served, fought, and too often died.

Quote:

> With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan, to do all which may achieve and cherish a just, and lasting peace, among ourselves, and with all nations.

Mr. Speaker, these words were taken from President Abraham Lincoln's second inaugural address and sadly read again just two months later over this author's grave.

The excerpt ''to care for him who shall have borne the battle, and for his widow, and his orphan,'' are now etched in stone on the plaque of the Veterans Administration Building in Washington, D.C., reminding us of the debt we owe to those who have defended our Nation in times of both war and peace.

From the smallest Wisconsin communities to the largest cities throughout our Nation, we have been blessed by those individuals who set aside their own aspirations to serve their country in defense of freedom and liberty.

Our duty is not only to ensure that parades take place, that heartfelt words of thanks are offered, nor is it only to fly our Nation's flag in honor of their service. It is more. It is our duty to care for the soldier and his dependents who continue to bear the effects of battle.

In our history, more than one million American men and women have died in defense of our Nation. It is staggering.

If these now silent patriots have taught us anything, it is that, because of the men and women who are willing to sacrifice their last blood and breath, the United States remains a symbol of freedom in a country whose ideas are still worth defending. Our veterans are the national heroes who define our American heritage.

Yet, in the spirit of our great Nation, they are unassuming heroes. They did not seek glory or praise. Their deeds will never be chronicled sufficient to their service. In large part, they were not people discontinued for military careers or tested in battle. They have largely been ordinary men and women who have accomplished extraordinary deeds.

We should ever be thankful that, for over 200 years, individuals of each generation, many from my own family, had been willing to put on uniforms and answer the call of their country, that they had been willing to risk their all to allow their children and grandchildren the opportunity to live in peace.

I would like to take this opportunity to single out just a few of the thousands of veterans I am so fortunate enough to represent. Veterans and other civic organizations in the district I represent, the First District of Wisconsin, recently nominated some of their members to be recognized and I am proud to also recognize their contributions here today on the floor of the House of Representatives.

Today, among the thousands I would like to recognize, are these men:

Frank Onti of Walworth, from the U.S. Navy; John Cameron of Mukwonago, from the U.S. Army; James Schmidt of Burlington, from the U.S. Navy; Dale Roenneberg of Brodhead, from the U.S. Army; Franklyn Condon of Brodhead, from the U.S. Army; Jack Frawley of Whitewater, from the U.S. Marine Corps; Edward DeGroot of Racine, from the U.S. Army; John Kreidler of East Troy, from the U.S. Army; Raymond Lewis, Jr., of Racine, from the U.S. Army; Robert Engstrom of Janesville, from the U.S. Army; Everett Shumway of Edgerton, from the U.S. Navy; Dan Ponder of Elkhorn, from the U.S. Army; Warren Welkos of Elkhorn, from the U.S. Marine Corps; John Tueting of Elkhorn, from the U.S. Marine Corps; Mario Maritato, a great guy, I know Mario very well, really a true hero in southern Wisconsin, of Somers, from the U.S. Marine Corps; Robert Flint of Kenosha, from the Marine Corps; Ted Dvorak, another great guy, of Kenosha, from the U.S. Navy; Cloren Meade of Beloit, from the U.S. Army Air Corps; and Arthur Gibbs of Beloit, from the U.S. Army.

How might we best recognize these American heroes, these who came from southern Wisconsin? We should pause to give them thanks for safeguarding our liberties. We should pledge to carry out the civic responsibilities of citizens living in a free country. And we should exercise those loyalties by demonstrating our respect for both our living veterans and those in their final resting places.

Mr. Speaker, it is so little to ask of us when they have given so much.

HMO'S NEED ACCOUNTABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I appreciate the comments of my colleague from Wisconsin. I agree that, hopefully, we will all be out tomorrow evening so we can go home and celebrate our Veterans Day programs in our districts and honor our veterans because of their commitment to our country and our freedoms.

I am here tonight to talk about an amazing announcement today that literally made the headlines on newspapers all over the country.

What do the American people mostly Democrats and also a significant amount of Republican Members know that the Republican leadership does not seem to know? Well, that is an open-ended question and it may take more than my 5 minutes to answer, but I will do it as best I can.

We want doctors and patients, and not HMO bureaucrats, to make the medical decisions. Today one of the Nation's largest HMOs, United Health Group, took the first step in recognizing the error of their ways. They decided they would no longer review each treatment recommendation made by a physician.

With the active support of the American people and the HMO reform conference committee, hopefully this will just be the first company that will do that and will proceed to have some real true HMO reform.

One company in the insurance business recognized what Democrats and the American people have known for years is that the most qualified people to make medical treatment decisions are the patients and doctors who know the details of that specific case.

Before we claim victory, we have to recognize that this is only a first step and in some ways a very small step.

Instead of reviewing the cases as they come in, the United Health Care has decided to review their physicians once a year. This is much better, but it still raises some concerns. One of the problems can be, that in reviewing a doctor's treatment decisions in this manner, it may be nearly impossible to determine the case each doctor has and whether there is specific reason such as

treating a high-risk patient or children that led the doctor to prescribe more tests than another doctor.

Again, this is a first step and a good step, but we still have got a long way to go. Other HMOs need to follow United's lead and every HMO, including United, needs to commit to leaving medical treatment decisions to the doctors and the patients without interference.

This recent decision by United raises the broader question of HMO reform and whether it is still necessary if other HMOs follow United's lead. The short answer is yes. The truth is that most HMOs are good. Managed care is created to take the ever increasing cost out of health care. But what we have seen is that not only have they taken the cost out up until this year, but they have also taken the quality out.

According to United, they approved 99 percent of the claims that their doctors had recommended. So what they found out is that they created a bureaucracy that they were paying for, that they approved those claims.

What is so important is that the patients' bill of rights that this House passed on a very bipartisan vote is still needed to protect the population who find themselves in an HMO that may not be as responsive as United is or as realistic as United that actually looked at it and said, hey, it is not cost effective to continue to do this.

□ 2200

As long as the industry continues to operate in their unregulated vacuum, these nonresponsive HMOs will continue to pop up and take advantage of the unsuspecting consumers. The scariest part of this scenario is that these unsuspecting consumers will not know that they are in such an HMO until it is too late. There are a lot of laws in this country that are designed to protect the majority from a small percentage of offenders. Most of us would not think of taking money from a person in return for a service but then when they come to collect what they paid for, deny, or worse in some cases, even delay that service. But the HMOs accept the premiums from consumers, but then deny or delay benefits in the hope that the consumer, who is really now the patient, will just give up and go away. They need to be held accountable for these deplorable actions.

I have an example of a constituent in my district. If you are familiar with Houston, she lives in the north part of Harris County. She had an appointment with a specialist in her neighborhood near Intercontinental Airport in the Humble area twice and it was canceled by her HMO. Finally they assigned her to a specialist across town. She said it was just difficult for her to be able to have family take her across town when literally there was a hospital complex that was so close she could get to. Again, it was delayed twice and ultimately could be denied because of transferring her to a specialist across town.

No other industry enjoys the protection that the HMO industry does from Federal law under the ERISA act. With this shield they are able to ignore the needs of their patients and they are held accountable to nobody. What I hope we would do as a Congress would be to respond and hopefully the HMO conference committee that we have will be responsive, Mr. Speaker.

The SPEAKER pro tempore (Mr. TOOMEY). Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. MINGE) is recognized for 5 minutes.

(Mr. MINGE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FOSSELLA) is recognized for 5 minutes.

(Mr. FOSSELLA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

(Mr. GOODLATTE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TIME FOR CONGRESS TO CLARIFY SCOPE OF EXECUTIVE AUTHORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, there has been increasing controversy over executive orders and presidential proclamations since President Franklin Roosevelt's administration. The recent comments of President Clinton's aide, John Podesta, in U.S. News and World Report, give us even more reason to be concerned. Mr. Podesta, in a moment of explicit candor, outlines the President's plan to issue a whole series of executive orders and changes to Federal rules without consulting Congress.

Mr. Podesta goes further, saying, ''There is a pretty wide sweep of things we're looking to do and we're going to be very aggressive in pursuing it.'' That is the Podesta Plan.

Mr. Speaker, I am here today to issue a dire warning. There is a ''culture of deference'' in this Congress, and if we do not address this issue of executive lawmaking, it is a violation of our own oath of office. I am most deeply concerned about the Podesta Plan, to use executive orders and other presidential directives to implement the President's agenda without the consent of Congress. Executive lawmaking is a violation of the Constitution. Article I states that all legislative powers shall be vested in the Congress.

Sadly, Congress should not be surprised that this President's frustrated staff is trying to bypass Congress. We have seen this before. When the President issued his executive order on striker replacements, he attempted to do what had been denied him by the legal legislative process. The same was true when the President issued his proclamation establishing a national monument in Utah, a sovereign State.

Mr. Speaker, the framers expected national policy to be the result of open and full debate, hammered out by the legislative and executive branches. They believed in careful deliberation, conducted in a representative assembly, subject to all the checks and balances that characterize our constitutional system. Having broken with England in 1776, the founders rejected government by monarchy and one-man rule. Nowhere in the Constitution is the President specifically given the authority to issue these directives.

In the legislative veto decision of 1983, INS v. Chadha, the Supreme Court insisted that congressional power be exercised ''in accord with a single, finely wrought and exhaustively considered, procedure.'' The Court said that the records of the Philadelphia Convention and the State ratification debates provide ''unmistakable expression of a determination that legislation by the national Congress be a step-by-step, deliberate and deliberative process.''

If Congress is required to follow this rigorous process, how absurd it is to argue that a President can accomplish the same result by unilaterally issuing an executive order. Of course he cannot. The President's controversial use of presidential directives skirt the constitutional process, offend the values

announced by the Court in the legislative veto case, and do serious damage to our commitment to representative government and the rule of law.

It is time to clarify the scope of executive authority vested in the presidency by article II of the Constitution. The Supreme Court has failed to address this issue and it is time for Congress to invoke the powerful weapons at its command. Through its ability to authorize programs and appropriate funds, Congress must now define and limit presidential power.

This is the danger: The road to tyranny does not begin by egregious usurpations, but by those which appear logical; meant to gain public support. We must not be lulled into complacency, because later they will be aimed directly at our fundamental liberties and at our representative self-government.

My colleagues, eternal vigilance is still the price of liberty.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

(Mr. NETHERCUTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

URBAN SPRAWL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, the current politically-correct, fad issue with the liberal elite is what is called urban sprawl. Those who are shouting the loudest about this are for the most part people who are very anti-private property or at least people who are very lukewarm about property rights. They are usually wealthy environmental extremists, and ironically they are the very people who are the most responsible for urban sprawl in the first place.

Today, the Federal Government owns about 30 percent of the land in this Nation. State and local governments and quasi-governmental units own another 20 percent, so that almost half the land is in some type of public ownership. The most disturbing things, however, are, number one, the very rapid rate in which government has been taking over private property in the last 30 or 40 years; and, number two, the governmental restrictions being placed on the land that remains in private ownership now.

I attended a homebuilders meeting a few years ago in which they estimated that 60 percent of the developable land in this country would be off-limits with strict enforcement of our wetlands laws. Also, the Endangered Species Act has stopped or delayed for years the development of roads that would have saved many lives and has stopped construction and driven up costs of many homes. And there is something called the Wildlands Projects which the Washington Post said is a plan by environmentalists to place under public ownership half the land that remains as private property today.

I know that to many people, the word ''development'' has become almost a dirty word. But home ownership has always been a very important part of the American dream. Are those of us who have homes now going to say to young couples and young families, ''Well, we have ours but we don't want you to have yours''? Are we going to tell young people in small homes now that they cannot someday move to a bigger home because we basically have to stop all development? Are we going to tell homebuilders and construction workers that they are going to have to find some other work, probably at much lower pay?

No one wants our beautiful countryside turned into strip malls or parking lots, but development can be done in beautiful, environmentally sound ways. Old, unsightly buildings or blighted areas can be greatly improved. We should stop the local government appetite for farms which they then turn into industrial parks and give land at bargain-basement rates, sometimes to foreign corporations.

Why do I say environmentalists have caused a great deal of urban sprawl, indeed most of it? Well, just think about it. When more and more land is taken over by government or restricted from development, that forces more and more people on to smaller and smaller pieces of land. It also drives up the price of the remaining developable land, which also forces more people into apartments, townhouses or houses on postage-stamp-size lots.

Big government, brought on primarily by our liberal elite, has also caused urban sprawl. Big government has given most of its contracts, favorable regulatory rulings, and tax breaks to extremely big business. This has driven many small businesses and small farms out of existence.

Now the environmental extremists are aiming at agricultural run-off or spill-off. Rigid Federal rules and red tape hit the small farmers hardest and keep driving them out, which of course inures to the benefit of the big corporate farms. When the Federal Government drives small businesses and small farms and even small hospitals out of existence, it drives more and more people into the cities and causes more and more urban sprawl.

We need to remember that private property is one of the main things that has given us the great freedom and prosperity that we enjoy in this country today. It is one of the main things that sets us apart from nations like the former Soviet Union and other starvation-existence type countries.

Tom Bethell in his new book, ''The Noblest Triumph,'' says, ''Private property both disperses power and shields us from the coercion of others.'' He quotes Pope Leo XIII in 1891 who wrote that the ''fundamental principle of socialism, which would make all possessions public property, is to be utterly rejected because it injures the very ones whom it seeks to help.''

Brian Doherty, in the November 4 Journal of Commerce wrote that ''if the anti-sprawl agenda became a truly powerful political force, we would have to obey the dictates of busybody politicians who think it better for us to live in a crowded, central city walk-up than to have our own house with a two-car garage and a nice quarter-acre lawn.''

We should remember that private property is good for the environment because people always take better care of their own property than they do of property in public ownership. We should realize, too, that if we really want to stop urban sprawl, we must stop this stealth-like abolition of private property so even more people are not forced into central cities and overcrowded suburbs.

Mr. Speaker, we should stop government takeover of property and people will then have both the freedom and the opportunity to spread out.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

(Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MANAGED CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GANSKE) is recognized for 5 minutes.

Mr. GANSKE. Mr. Speaker, yesterday the newspapers across the country trumpeted a headline. Here is one from the Washington Post, similar to newspapers all across the country: HMO to Leave Care Decisions Up to Doctors. The subheading is United Health Care has 14.5 Million Clients.

The first three paragraphs read:

''United Health Care, one of the Nation's largest managed care companies, said yesterday that it will stop overruling doctors' decisions about what care patients should receive. The company, which covers 14.5 million people nationwide and more than 200,000 people in the District of Columbia, Maryland and Virginia, is abandoning a cornerstone of the managed care industry's cost containment strategy and one of the features most responsible for the outpouring of public ill will toward managed care. United says it is taking the final say out of the hands of managed care bureaucrats and returning it to the treating physician because requiring doctors to get prior authorization was costing more money than it saved.''

Now, think about this. This is the Nation's second largest HMO, in the

first place admitting, yes, we have been making medical decisions. And then in the second place saying, but you know what, we have found that that is not cost efficient. So we are going to allow the doctors to make the decisions.

Remember, the HMOs have said during the debate we had here a couple of weeks ago, ''Oh, no, we don't make medical decisions, we just make determinations of benefits.'' And then they said, ''But if you pass the legislation, it is going to cost so much more. Premiums will go up.'' And, guess what, one of the two cornerstones of the legislation that passed this House was on the determination of medical necessity, physicians and patients would make the decision.

□ 2215

Now, the second largest HMO in this country is saying, hey, do you know what, we found out that it cost us more money to micromanage those decisions, so we are not going to do it anymore. That certainly undercuts their arguments about increases in premiums, does it not?

Mr. Speaker, on October 7, the House of Representatives sent a message to the Senate: Get real about protecting patients for all citizens from HMO abuses. We passed, remarkably, a bipartisan consensus managed care reform bill by the margin of 275 to 151.

The American public is now demanding real action on this issue. How do I know that? A recent survey. The Washington Post did a survey to better understand Americans' concerns. More than 2,000 people were asked 51 things that might be worrying them. Do Members know what the top worry in the public is today, by 66 percent of people who worry about it? To a great deal, according to the survey, their worry is that insurance companies are making decisions about medical care that doctors and patients should be making.

Do Members know what else the survey showed? The same thing between Democrats, the same thing between Republicans, the same thing between Independents. Do Members know what else the survey showed? It did not matter whether they were supporting Al Gore or Bill Bradley or George W. Bush, this was still number one on the public's mind.

So guess what we did during that debate? We voted on the Senate bill in the form of the Boehner amendment. What did the House do? It overwhelmingly defeated the Senate bill because it is a sham bill. That Senate bill in this House only got 145 votes and 284 votes against it.

Just a few days ago the House voted again. By a vote of 257 to 167, the House instructed conferees to support the House-passed bill, the Norwood-Dingell-Ganske bill. Why did the House have to do this? Because the Speaker appointed 13 GOP conferees, and only one of them voted for the bill that passed the House. When is my Republican leadership going to get it?

A new survey by the Kaiser Family Foundation showed that 85 percent of employers support emergency room provisions, and 94 percent of employers support the right to an independent review. Even on the right to sue, 60 percent of employers support the right to sue a plan, with support higher than that for employers of small businesses, and still above 50 percent for employers of firms with more than 5,000 workers.

Mr. Speaker, it is time to get real about managed care reform. Let us see if the conference can really come up with something real.

□ 2320

ILLEGAL NARCOTICS

The SPEAKER pro tempore (Mr. TOOMEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 41 minutes.

Mr. MICA. Mr. Speaker, I come to the floor late on a Tuesday night once again to talk about the issue of illegal narcotics. But before I get into the issue of illegal narcotics, I must follow up on some of the comments of my colleagues, and I am going to try to mesh my comments into part of the debate that we are having here in Congress as we wrap up the funding of our government. It does take 13 appropriations measures to fund our entire government. We have been through about nine of those bills. Really in most cases now we are down to the question of not how much more money to expend but how to operate programs. I am so pleased that my colleagues on the majority side, the Republican side, spent part of the time tonight talking about education and about some differences in philosophy. I think that is very important to particularly education.

I chaired the House Civil Service Subcommittee for some 4 years. If you want to find out where the bodies and the bureaucrats are in our Federal Government, just chair that panel for a short period of time and you will. I quickly found that there are about 5,000 people in the United States Department of Education. I also found out that about 3,000 of them are located just within a stone's throw of the Capitol building right here in the Washington metropolitan area. Then another 2,000 are located in the approximately dozen regional offices throughout the United States. It is no surprise that none of them are located in the classroom. It is also no surprise that they earn between 50 and over $100,000 apiece on average. They are very well paid and they are education bureaucrats. Their responsibility is to really provide the administration for some, it was 760 Federal education programs. We have narrowed that down to approximately 700. In addition to that, they are part of what I call the RAD Patrol. The RAD Patrol is regulate, administer and dictate.

Basically we found in our work on the Civil Service Subcommittee and again exploring what these individuals are doing, is basically they are again administering a mass of Federal programs and a mass of Federal regulations that are being pumped out. What that does in fact is it ties our teachers up in little knots, it ties our school boards and our States into bigger knots, and the last thing the teacher is able to do is teach. They have put so many constraints and requirements and reports and paperwork on our teacher, that if you talk to a teacher today, a teacher no longer has control of her classroom, his or her classroom, no longer has control over his or her agenda, no longer has discipline in the classroom and no longer has respect. All of that, I think we can trace back to this massive Federal bureaucracy.

A part of the budget battle right now is how those education dollars are spent. They still want to maintain on the other side of the aisle control of the entire education agenda from Washington. I do not think that has ever been the case. The best schools have always been parent and teacher and local community led. This is a very fundamental argument. Balancing the budget was probably one of the easier tasks. Of course, we took our wounded in that battle and were accused of all kinds of misdeeds, but in fact we did bring the country's budget into order, not by decreasing any programs, in fact, we have increased the money in most of these programs, including education, but by, in fact, limiting some of the increases in the programs that had astronomical amounts of increases, the revenue that was coming in was not equal to the money in increases we were giving out and we got ourselves into two and $300 billion deficits. Every pension fund, every trust fund was raided, and for 40 years that continued. It was not buying votes but it was giving out more money than was coming in the treasury and then taking from all of these funds, some of them even pension funds.

I oversaw some approximately 30 Federal pension funds out of about 36 or so that were totally without any hard assets. Every bit of money of the Federal employees had been taken out. In fact, that obligation to pay back just the interest on the money that has been taken from those funds amounts to about $40 billion and is projected to grow in the next 10 years to about $120 billion a year. It is, I believe, the fourth biggest budget item that we have, because there is no money in that. Everybody is upset about Social Security and they took basically all the money out of those funds, the hard cash put in certificates of indebtedness of the United States. Well, they did the same thing to the Federal employee pension funds.

You look at program after program, we have had battle after battle to try to get those programs in order. The highway trust fund. I serve on the Committee on Transportation and Infrastructure. The highway trust fund

was another fund that was abused. The 18.4 cents that you were paying into this fund to build highways and public infrastructure, that money was not really going in there. Some of it was not being spent to artificially, quote, go towards balancing the budget. Then money was also taken out of there and used for other purposes other than what the highway trust fund was set up for, and that cost tens of billions of dollars to straighten that out. We have had a heck of a battle in the House of Representatives to try to straighten that out. So whether it is pension funds, whether it is Social Security, whether it is the transportation highway trust fund, for 40 years they played a game with the American people. Now we are paying a penalty in trying to straighten that out. But we are trying to do it in a legitimate fashion.

I chair the Criminal Justice and Drug Policy Subcommittee of the House of Representatives. I try to speak at least once a week as the person who is responsible in the House in trying to help develop a national drug policy. I try to focus on that issue, get the Congress, Mr. Speaker, and my colleagues here and the American people to pay attention to what I consider the most serious social problem that we have, and certainly it is a criminal justice problem with our prisons nearly packed to capacity with some close to 2 million, 1.8 million Americans behind bars, some 70 percent of them there because they have been involved in some drug-related crime.

We have a horrible situation. As I mentioned, we have had over 15,000 deaths; 15,973 deaths were reported from drug induced causes in 1997, our latest figures. That is up from 11,703 in 1992 when this administration changed hands.

So we have a very serious national problem. This national problem also as far as narcotics is intertwined in this budget battle. As I say, we have 13 budget bills or appropriations measures that make up the total budget and appropriations to run the country. One of those funding measures is to fund the District of Columbia. We have an obligation under the Constitution since we established in 1790 the District of Columbia to fund the District of Columbia and act as stewards of our Nation's capital and the district that was set up.

□ 2330

Unfortunately, in some 40 years of control by the other side, the District of Columbia, which should, again, be a shining example for all Americans, the place of our national seat of government, a respected capital in the world turned into a city in disgrace, a city in despair.

When we inherited the District of Columbia in 1995, and I came in 1993 when the other side was in control, and controlled the House, the Senate, and the other body, and by wide majorities, and the executive office, of course, the presidency, they controlled the entire three major determiners of policy for the District of Columbia and for national policy.

But we inherited in 1995 a Nation's capital in disgrace. Part of the budget battle today is, and one of the pending items that has not been approved, the President has vetoed it several times, and he may veto it again, is funding for the District of Columbia.

I always like to cite from facts about the situation. I do not mean to do this in a partisan fashion. We inherited a responsibility here. We have had some 4-plus, going on 5 years of running the Nation's business, and also overseeing Federal policy towards the District of Columbia.

I cite from some articles about what we inherited. A Washington newspaper, July 27, 1994, this article said about public housing, and I will quote from the article, ''Hundreds of D.C. families live in deplorable conditions as a result of the Department of Housing and Urban Development's failure to properly monitor owners and inspect various properties,'' says a report by the D.C. accounting office. ''The study found that 292 HUD subsidized units at Edgewood Terrace in the Northeast section of the city, the District of Columbia, failed to meet standards, and even called some of the 114 occupied apartments unfit for human habitation.''

This is the type of situation we inherited. The public housing units were not fit for human habitation. In fact, the housing agency was bankrupt.

I spoke a minute ago about the taking of pension funds. Marion Barry, who was the chief executive, this report in the newspaper of November 9, Washington, 1994, states that there was $5 billion in unfunded police and firefighters pension liability which also was increasing costs.

The D.C. General Hospital was hemorrhaging in red ink, and there were other fiscal problems. It goes on to cite the situation with pension funds, the hospital, and other matters that we inherited, again, as the new majority.

The situation, I have cited this before, but even the morgue was a disaster. This report from early in 1996, again, a Washington paper, the Washington Post, reported, ''About 40 bodies are being stockpiled at the D.C. morgue because the crematorium broke down about a month ago, and the cash-strapped city government has no other way to dispose of the corpses.''

When the Republicans inherited, again, 40 years of their oversight of the District of Columbia, we were running approximately three-quarters of $1 billion in deficit that year that we inherited this mess. I am pleased that as a result of what we have done, not only with the national budget but also with the District budget, this is one of the first years that the District is nearly in a balanced budget situation.

We have not replaced all of the funds that have been taken from these various funds, just like we have not replaced social security or unfunded Federal employee pensions, but we have begun that process. My point tonight is we do not want to turn back, whether it is those programs that I have mentioned or other programs.

Another program I have mentioned tonight is the job training program. A Washington Post article of October 4, 1994, basically found that the city was spending a great deal of money and not training anyone. In fact, one of the reports we had was no one was trained in one year, and that in fact most of the money went for administration.

Another Washington Post article talked in 1993 about drug and alcohol treatment, something that, of course, is very much of interest to me and also to our Subcommittee on Criminal Justice, Drug Policy, and Human Resources. This is what we inherited: ''Its drug and alcohol treatment programs,'' the District, ''however were denounced as inadequate last month by Federal officials.''

They go on to talk about lack of a mental health commissioner for the past year, and other deficits in programs here.

Some of the worst examples of what we inherited as a new majority is this article from the Washington Post in April of 1995. With the city's financial situation in almost total bankruptcy, they did in fact treat the mentally ill children in this fashion. Let me read this from the article:

''Some mentally ill children at the District's St. Elizabeth's Hospital have been fed little more than rice, jello, and chicken for the last month after some suppliers refused to make deliveries because they have not been paid.'' This is, again, part of what we inherited here in the District.

I could go on. There are more and more of these articles about what we inherited in the District of Columbia. My point tonight is that the District of Columbia is now beginning to be in some order, brought into some order by the new Republican majority. This is not the time to turn back.

Tonight and this week we do not have an issue over dollars in the D.C. budget bill. We still have an issue, though, however, of policy. That policy difference is over a liberal approach to drug treatment, a liberal approach to needle exchange, a liberal approach to enforcing the laws about what are now illegal narcotics in the District of Columbia.

The administration would like to change the philosophy. They would like a liberal philosophy, a liberal needle exchange policy, liberalization of the narcotics laws in the District of Columbia. Our side, the majority, says no, we should not make that step, that we think it is the wrong step.

We have some good examples of what bad programs have done. I always cite just to the north of us Baltimore, which has had a liberal policy. That policy in fact has caused tremendous

problems for Baltimore. Baltimore has gone from some 38,000 addicts just several years ago, in 1996, according to DEA, to the most recent statistics by one of the city council members there where Baltimore now has somewhere in the neighborhood of one out of every eight citizens, and that could be anywhere from 70,000 to 80,000 people in Baltimore are now drug or heroin addicts.

I do not think we need to model liberal programs, liberal needle exchange programs, or a liberal program as far as drug laws and model it after Baltimore and have that in the District of Columbia. We have some 540,000 population here in the District. We probably have some 60,000 addicts, if we adopted that model and the same thing happened here in the District of Columbia.

□ 2340

We do not think that, in fact, that is the way to go.

I have also cited in the past, and I have another chart here tonight, showing zero tolerance and a tough enforcement policy. Some folks do not like that. Some folks call for liberalization. They say the drug laws are too tough. But we find this New York City chart, look at index of crime. We have index of crimes and that is going down as the arrests and enforcement go up.

Not only do we have crime being reduced with tough enforcement with zero tolerance, the statistics on deaths are about as dramatic as any figures I have ever seen. There has been a 70 percent reduction in deaths since Mayor Giuliani took office. The early years of his taking office there were about 2,000 deaths, and in 1998 they are down to 629, a 70 percent reduction. Baltimore, again, a liberal drug policy, more liberal philosophy with their folks, has had 312 deaths in Baltimore in 1997, 312, the same figure, in 1998. And one can see what again a contrasting philosophy can do.

So we think that it is very important that we continue the fight. If the President wants to veto the bill again, many of us here have said let him veto the bill, but we insist on some of these provisions. Again, we do have the finances of the District in order. We have brought them in order. We have gone from a $700-plus million deficit just in the District, almost three-quarters of a billion when we inherited the District, to nearly a balanced budget in the District of Columbia.

We have reduced the number of employees from 48,000 to 33,000. We have put in new administration. Of course we had to put in a control board, some of the operations we had to privatize and some of them we had to reorganize. Programs are in order that were a disaster. Welfare and schools. They were paying some of the highest in taxes in the District of Columbia and some of the schools were the worst performing. Paying highest amount per capita, one of the highest in the Nation, and again getting some of the lowest results.

We personally think this paying more and getting less out of government is a bad approach and we would hate to see us take now a liberal policy and adopt it in place of a conservative policy, a zero tolerance policy when it comes to drug enforcement. Again, the statistics are pretty dramatic.

A lot of folks say that those in jail are there because they have committed some minor crime offense. That really is not the case. There are many myths that are relative to this war on drugs and the effort against illegal narcotics.

We had a study, one of the most recent studies completed in the United States was completed in New York by their judicial officers and they found roughly 22,000 individuals serving time in New York State prisons for drug offenses. However, 87 percent of them were actually serving time for selling drugs, 70 percent of those folks had one or more felony convictions already on their record. So 70 percent of those 22,000 individuals were already multiple felons.

Of the people that are serving time for drug possession, 76 percent were actually arrested for sale or intent to sell charges and eventually pled down to possession. So some of the folks that are in New York State prison are there who may be charged with more minor offenses but, in fact, have plea bargained down. And, in fact, some 70 percent of them have one or more felony convictions.

So we are not exactly dealing with people who are being put in prison for some minor drug offense. We are dealing with repeat offenders.

But the statistics do show in the manner in which this has been handled in New York that, in fact, this tough enforcement, zero tolerance does make a big difference and dramatically changes the lifestyle, as anyone who has visited New York or lives in New York can attest to.

The other myth that I like to dispel and will talk about very briefly again tonight is that the war on drugs is a failure. Let me repeat some charts if I may. I hear over and over that the war on drugs is a failure. The war on drugs is not working. Let us just take a minute and look at what has happened. This chart does show 1980 and the Reagan administration and the Bush administration through 1990, and the Clinton administration. We see in this long-term trend in drug use a continuing decline. And this is through the Reagan and Bush administration, a tougher policy, awareness campaign that was made, interdiction and source country programs that were properly funded.

We saw all of that come to an end in 1993 with the election of President Clinton and the new majority at that time in the House. Actually, the old majority. They controlled the House and the Senate, the Democrat side and the White House. One could almost trace the dismantling of the drug czar's office and he reduced that staff, and the Democrat Congress did, from 120 to some 20 individuals in the drug czar's staff. That would be the first blow. Then the next blow was of course the hiring of Jocelyn Elders who said ''Just say maybe'' to our young people.

The next thing, if we looked at this chart and we added it in here, were the reductions in spending on interdiction and also on source country programs. Again, two Federal responsibilities. Stopping drugs at their source and then stopping drugs before they come into our country and into our borders.

In the international source country programs, Federal drug spending on these programs declined 21 percent in just one year after the Clinton administration took office. So to go back to the chart, we see a 21 percent decrease. In fact, just in the last year, in this year, we will get us back to in international programs to the level of 1992 in spending and putting back together the cost-effective stopping drugs at their source. If one does not think these programs are successful, we have spent very few dollars in the last 2 years in Bolivia and Peru, two cooperating countries under the leadership of President Banzer in Bolivia and President Fujimori in Peru. In Peru, we have cut the coca production by 60 percent in a little over 2 years. And in Bolivia, some 50 percent of the cocaine production has been reduced. And we can almost see the beginning of cocaine trafficking use and abuse in the United States, in fact we do see that and we see less and less of the product coming into the country. So we know a little bit of money, out of billions and billions expended on other programs and certainly enforcement, certainly imprisonment and certainly treatment, are very expensive programs. But keeping the drugs out of our country again is a Federal responsibility.

The interdiction programs, again, if we go back to the chart here and we see 1993, the Clinton administration reduced interdiction, cut interdiction some 23 percent 1 year after the Clinton administration took office.

So these charts and, again, we can bring up the exact charts. It would almost be nice to superimpose those. But international programs, again, in the Reagan-Bush years were at this level. Dropped down. We are bringing them back up to where we were 1991, 1992 equivalent dollars, source country programs.

□ 2350

Source country programs, interdiction programs, the same thing. They cut dramatically.

Basically they stopped the war on drugs as far as any effort and put most of their effort into drug treatment programs. Most people would think that we have had a decline just of late or in that period in drug treatment programs. In fact, Federal drug treatment spending on treatment programs increased 37 percent from 1992 to 1998. It went from $2 billion to a little over $3 billion. Interestingly enough, even

with the new majority, we have increased from 1995 when we took control some 12 percent in spending, not tremendous increases of that past, but there has been a steady increase.

So contrary to some belief and some myths, we have been spending and increasing funding on treatment. But we know that dramatic reductions, again, in interdiction and source country programs cause problems. Those problems, of course, we are facing today in this budget battle.

Also on the agenda in Washington this week is how much money we put into additional assistance. Today's Washington Post has a story that berates the Congress a bit not moving forward on funding for Colombia.

I cited a success story the last couple of years in Peru and Bolivia where we have made great strides in curtailing illegal narcotics coming into the United States. In Colombia, we have a reverse situation.

The administration in 1993 began an effort to really close down our efforts to assist Colombia. First of all, they stopped information sharing. Next, they stopped overflights and also information sharing from those overflights. Where we shared information on shootdown policies, basically the administration shot down that policy. For some time, we were left without providing any assistance.

The next dramatically destructive step that was taken was the decertification of Colombia. Now, Colombia could be decertified as not fully cooperating on the war of drugs, which is a Presidential responsibility in his annual assessment as charged by law. But there is in that law a provision for a waiver which would have allowed us to get equipment, resources to Colombia. In fact, that was not granted for several years. Until 1998, absolutely nothing went to Colombia.

In the meantime, we have seen the disruption of Colombia. We have seen nearly a million people displaced in 1 year, 300,000. We have seen some 30,000 people slaughtered, some 4,000 to 5,000 police and public officials, Members of Congress, the Supreme Court slaughtered in Colombia.

Now we see the disruption of Colombia and that disruption extending up into the Panama isthmus and to other countries. This region produces 20 percent of the United States daily oil supply, and suddenly this has become a crisis.

The Washington Post asked today in the current budget negotiation, ''however, no one seems to be looking for money for Colombia.''

One of my responsibilities of chair of the Subcommittee on Criminal Justice, Drug Policy and Human Relations is to find out where the money has gone, investigate how it has been expended.

Last year, we appropriated some $287 million towards the antinarcotics effort in a supplemental package, again to try to get us back on track with Colombia and in the international arena and interdiction arena.

Today, this morning, and last week, I began a series of closed door meetings with the Department of State officials, DoD officials, in addition to public hearings that we have held, to find out where the money has gone.

Of the money, I have found that about $200 million actually ended up going to the account designated for Colombia. Of that money, to date, only about half of the $200 million has actually been expended.

Unfortunately, we have requested, and this has been a bipartisan request of the administration for the past 4-years, helicopters, equipment, resources, and assistance to Colombia so the Colombians can fight the Marxist insurgency that is financed by international narcotics, narcoterrorists. To date, unfortunately almost all of that equipment has not reached the shores of Colombia.

We are told that we had delivered this past weekend three helicopters. We have six other helicopters. We have nine helicopters in total of which, really, not any of them are fully capable of missions yet. Some still need armoring. To make matters worse, we found that the ammunition that we have requested year after year to provide to the Colombian national police and their enforcement folks that are going after the narcotraffickers had been shipped November 1, some few days ago. They could not even confirm this morning to me that that has arrived.

Now, we are willing to meet our budget obligations, and we will put into Colombia whatever money we need for Colombia to help get that situation under control. But we have repeatedly provided funding assistance. We have requested the administration to get resources, helicopters, ammunition, whatever it takes to go after the narcoterrorists.

I must report to the Speaker and the House of Representatives tonight that the track record is absolutely dismal of performance by the administration. So it is unfortunate that, even with a supposed request, and I asked this morning for a specific request of how much money the administration will be asking for, and we have heard anywhere from $1 billion to $2 billion, some folks have recommended as much as $1.5 billion to assist them over a several-year period, we still do not have, and I still do not have as of this morning a specific proposal from the administration.

I think this will be the December surprise. I think that once the Congress has finished its work in the next few days that the Congress will be presented with a price tag for this failure, failure to get the equipment there, failure to get the resources there, failure to spend the money that the Congress has already expended.

So we are going to take a very hard look at that and see how those dollars should be expended. We will try to provide additional resources. But we must do it mindful of that we are guardians of the public Treasury and that those dollars that we ask to appropriate in a fashion go to those specific projects, and that the administration follow through as directed by the Congress of the United States before we pour more money into this war. Again, we are committed to put in whatever dollars are necessary to bring this situation under control.

So we have a horrible situation getting worse. This last chart, as I close, shows the latest statistics showing from South America 65 percent of the heroin now an increase from 14 to 17 percent, the heroin coming from Mexico, and some 18 percent from southeast Asia. A picture that looks worse for Mexico, worse for South America, and worse for the American people and for the prospect of hard narcotics, in this case heroin, coming into our streets and our communities.

Finally, tomorrow we will meet with the Mexican officials, their attorney general, their other officials who will be here with a high level of working group to discuss the United States and Mexico efforts to get illegal narcotics through the major transit country, Mexico, under control. It is my hope that we can we can be successful, but we are also going to take a large look at Mexican cooperation, which has been lacking.

Mr. Speaker, hopefully next week we will have the opportunity with the Congress to come back and finish the narcotics report.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATSUI (at the request of Mr. GEPHARDT) for after 3:00 today on account of official business.

Mr. PASCRELL (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:

Mr. LIPINSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. FOSSELLA, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. GOODLING, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. GANSKE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOLT, for 5 minutes today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes today.

(The following member (at his own request) to revise and extend his remarks and include extraneous material.)

Mr. GOODLING, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 923. An act to promote full equality at the United Nations for Israel; to the Committee on International Relations.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System; to the Committee on Resources.

S. 1809. An act to improve service systems for individuals with developmental disabilities, and for other purposes; to the Committee on Education and the Workforce.

S. Con. Res. 30. Concurrent resolution recognizing the sacrifice and dedication of members of America's nongovernmental organizations (NGO's) and private volunteer organizations (PVO's) throughout their history and specifically in answer to their courageous response to recent disasters in Central America and Kosovo; to the Committee on International Relations.

S. Con. Res. 68. Concurrent Resolution expressing the sense of Congress on the occasion of the 10th anniversary of historic events in Central and Eastern Europe, particularly the Velvet Revolution in Czechoslovakia, and reaffirming the bonds of friendship and cooperation between the United States and the Czech and Slovak Republics; to the Committee on International Relations.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), the House adjourned until today, Wednesday, November 10, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5248. A letter from the Deputy Legal Counsel, Department of the Treasury, transmitting the Department's final rule—Community Development Financial Institutions Program (RIN: 1505–AA71) received November 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5249. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Determination and a Memorandum of Justification pursuant to Section 2(b)(6)(B) of the Export-Import Bank Act of 1945; to the Committee on Banking and Financial Services.

5250. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Determinations and Justification pursuant to Section 2(b)(6)(B) of the Export-Import Bank Act of 1945; to the Committee on Banking and Financial Services.

5251. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Amendments to Air Pollution Control Regulation Number 9; Correction [AD–FRL–6471–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5252. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Revisions to Consumer Products Rules [TX–106–1–7405a; FRL–6471–8] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5253. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Removal of the Approval and Promulgation of Air Quality Implementation Plans; Connecticut; National Low Emission Vehicle Program [CT–054–7213; A–1–FRL–6471–7] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5254. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Oklahoma; Visibility Protection [OK–3–1–5201a; FRL–6470–4] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5255. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [CA 034–0181; FRL–6470–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5256. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Knox County portion of Tennessee Implementation Plan [TN–105–1–9949a; TN–209–1–9950a; FRL–6469–4] received November4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5257. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County [AZ 086–0018a FRL–6468–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5258. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 00–11), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5259. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 147–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5260. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Greece [Transmittal No. DTC 149–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5261. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Australia [Transmittal No. DTC 110–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5262. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Germany [Transmittal No. DTC 139–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5263. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Italy [Transmittal No. DTC 157–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5264. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 131–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5265. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Australia, Bermuda, Canada, France, Germany, Italy, Japan, Norway, Sweden, and the United Kingdom [Transmittal No. DTC 161–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5266. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Turkey [Transmittal No. DTC 85–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5267. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to NATO and the Netherlands [Transmittal No. DTC 150–99], pursuant to 22

U.S.C. 2776(c); to the Committee on International Relations.

5268. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 151–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5269. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Thailand [Transmittal No. DTC 140–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5270. A letter from the Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Addition of Persons Blocked to Executive Order 13088—received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5271. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to the Republic of Korea [Transmittal No. DTC 154–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5272. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 13–158, ''Noise Control Temporary Amendment Act of 1999 '' received November 2, 1999, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

5273. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the report on commercial activities; to the Committee on Government Reform.

5274. A letter from the Staff Director, Federal Election Commission, transmitting the response to the Office of Management and Budget memorandum of July 12, 1999 regarding the inventory of commercial activities; to the Committee on Government Reform.

5275. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting a report that the Commission does not engage in any contracting activities that would be covered under the FAIR Act; to the Committee on Government Reform.

5276. A letter from the Executive Director, Marine Mammal Commission, transmitting the Commercial Activities Inventory Report; to the Committee on Government Reform.

5277. A letter from the Office of the Director, National Gallery of Art, transmitting a copy of the Commercial Activities Inventory of the civil service positions in accordance with Public Law 105–270; to the Committee on Government Reform.

5278. A letter from the Chairman, National Labor Relations Board, Office of Inspector General, transmitting the Commercial Activities Inventory; to the Committee on Government Reform.

5279. A letter from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Application of Marine Biotechnology to Assess the Health of Coastal Ecosystems: Request for Proposals for FY 2000 [Docket No. 991027290–9290–01] (RIN: 0648–ZA74) received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5280. A letter from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—National Fisheries Habitat Program: Request for Proposals for FY 2000 [Docket No. 990927267–9267–01] (RIN: 0648–ZA71) received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5281. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Year 2000 Airport Safety Inspections [Docket No. FAA–1999–5924; SFAR No. 85] (RIN: 2120–AG83) received November 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5282. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; St. Michael, AK [Airspace Docket No. 99–AAL–10] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5283. A letter from the Acting Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement (RIN: 0960–AE85) received November 3, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5284. A letter from the Secretary of Transportation, transmitting a proposed bill entitled, ''Surface Transportation Board Reauthorization Act of 1999''; jointly to the Committees on Transportation and Infrastructure, the Judiciary, and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAUZIN: Committee of Conference. Conference report on H.R. 1554. A bill to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite (Rept. 106–464). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BLILEY (for himself, Mr. MARKEY, Mr. TAUZIN, Mr. OXLEY, Mr. GILLMOR, Mr. DEUTSCH, Mr. PICKERING, Mr. ENGEL, Mr. BILBRAY, Mr. BURR of North Carolina, Mr. LARGENT, Mr. COBURN, Mr. SHAYS, Mr. FOSSELLA, Mr. EHRLICH, Mr. DAVIS of Virginia, and Mr. BLUNT):

H.R. 3261. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce.

By Mr. BISHOP:

H.R. 3262. A bill to provide for Federal recognition of the Lower Muscogee-Creek Indian Tribe of Georgia, and for other purposes; to the Committee on Resources.

By Mr. BISHOP (for himself and Mr. EVERETT):

H.R. 3263. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture.

By Mr. KUYKENDALL (for himself and Mr. CAMPBELL):

H.R. 3264. A bill to amend the Investment Company Act of 1940 to promote the establishment of small business investment companies; to the Committee on Commerce.

By Ms. BALDWIN (for herself, Mr. BARRETT of Wisconsin, Mr. KIND, Mr. KLECZKA, Mr. LUTHER, Mr. MARKEY, Mr. OBERSTAR, Mr. OBEY, Mr. WU, Mr. LARSON, and Mr. SENSENBRENNER):

H.R. 3265. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. BROWN of Ohio (for himself, Mr. WAXMAN, and Ms. SLAUGHTER):

H.R. 3266. A bill to direct that essential antibiotic drugs not be used in livestock unless there is a reasonable certainty of no harm to human health; to the Committee on Commerce.

By Mr. CAMPBELL:

H.R. 3267. A bill to improve benefits for members of the reserve components of the Armed Forces and their dependents; to the Committee on Armed Services.

By Mr. COOK:

H.R. 3268. A bill to provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes; to the Committee on Resources.

By Ms. DEGETTE (for herself and Mr. STRICKLAND):

H.R. 3269. A bill to amend title XIX of the Social Security Act to make technical improvements in the operation of the Medicaid Program, particularly with respect to the treatment of disproportionate share hospitals; to the Committee on Commerce.

By Mr. DIAZ-BALART (for himself and Mr. MCCOLLUM):

H.R. 3270. A bill to amend title 18 of the United States Code to prevent stalking of minors, and for other purposes; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 3271. A bill to amend title XVIII of the Social Security Act to expand the Medicare Payment Advisory Commission to 19 members and to include on such commission individuals with national recognition for their expertise in manufacturing and distributing finished medical goods; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 3272. A bill to amend the Immigration and Nationality Act to restore certain provisions relating to the definition of aggravated felony and other provisions as they were before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 3273. A bill to except spouses and children of Philippine servicemen in the United States Navy from bars to admission and relief under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. GUTIERREZ:

H.R. 3274. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title XVIII of the Social Security Act to provide protection for beneficiaries of group and individual health insurance coverage, group health plans, and MedicareChoice plans in the use of prescription drug formularies; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be

subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 3275. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture.

By Mr. JENKINS:

H.R. 3276. A bill to suspend temporarily the duty on thionyl chloride; to the Committee on Ways and Means.

By Mr. LEVIN:

H.R. 3277. A bill to provide for interregional primary elections and caucuses for selection of delegates to political party Presidential nominating conventions; to the Committee on House Administration.

By Mr. LUCAS of Oklahoma:

H.R. 3278. A bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of a designated reserve ratio; to the Committee on Banking and Financial Services.

By Mr. MEEHAN:

H.R. 3279. A bill to prohibit the possession of a firearm in a hospital zone; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 3280. A bill to amend title II of the Social Security Act to provide for continued entitlement to child's insurance benefits of individuals who marry after attaining age 18 and who have Hansen's disease; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 3281. A bill to amend title II of the Social Security Act to provide for payment in all cases of lump-sum death payments; to the Committee on Ways and Means.

By Mrs. MORELLA:

H.R. 3282. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Ways and Means.

By Mr. NEAL of Massachusetts:

H.R. 3283. A bill to amend the Internal Revenue Code of 1986 to revise the tax treatment of derivative transactions entered into by a corporation with respect to its stock; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 3284. A bill to amend part C of title XVIII to provide for an improved methodology for the calculation of MedicareChoice payment rates; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SESSIONS:

H.R. 3285. A bill to authorize public-private partnerships to rehabilitate Federal real property, and for other purposes; to the Committee on Government Reform.

By Mr. TAYLOR of Mississippi:

H.R. 3286. A bill to continue coverage of custodial care under the military health care system for certain individuals during fiscal year 2000; to the Committee on Armed Services.

By Mr. WEINER (for himself and Mr. CHABOT):

H.R. 3287. A bill to amend the Public Health Service Act to provide for demonstration projects in which nurses and other health care professionals in hospital emergency rooms and other sites provide specialized assistance to victims of sexual assault and interpersonal violence; to the Committee on Commerce.

By Mrs. WILSON (for herself and Mr. UDALL of New Mexico):

H.R. 3288. A bill to authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes; to the Committee on Resources.

By Mrs. CHENOWETH-HAGE:

H.J. Res. 77. A joint resolution notifying the Government of Panama of the nullity of the Carter-Torrijos treaties and recognizing the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Zone; to the Committee on Armed Services.

By Mr. YOUNG of Florida:

H.J. Res. 78. A joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes; to the Committee on Appropriations.

By Mr. THOMAS:

H. Con. Res. 221. Concurrent resolution authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution; to the Committee on House Administration.

By Mr. ROGAN:

H. Con. Res. 222. Concurrent resolution condemning the assassination of Armenian Prime Minister Vazgen Sargsian and other officials of the Armenian Government and expressing the sense of the Congress in mourning this tragic loss of the duly elected leadership of Armenia; to the Committee on International Relations.

By Mr. COX (for himself, Mr. HASTERT, Mr. ARMEY, Mr. DELAY, Mr. WATTS of Oklahoma, Mrs. FOWLER, Ms. PRYCE of Ohio, Mr. DAVIS of Virginia, Mr. GILMAN, Mr. DREIER, Mr. SPENCE, and Mr. LANTOS):

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress regarding Freedom Day; to the Committee on Government Reform, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of California (for himself, Mr. REYES, Mr. CUNNINGHAM, Mr. PITTS, and Mr. BOYD):

H. Con. Res. 224. Concurrent resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the end of the Vietnam era and commemorating the service and sacrifice of the men and women who, as members of the Armed Forces or as civilians, during that era served the Nation in the Republic of Vietnam and elsewhere in Southeast Asia or otherwise served in support of United States operations in Vietnam and in support of United States interests throughout the world; to the Committee on Veterans' Affairs.

By Mr. STUMP:

H. Res. 368. A resolution providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 2280.

By Mr. KUCINICH (for himself, Ms. WOOLSEY, Mr. HINCHEY, Ms. BALDWIN, Mr. OWENS, Mr. MARKEY, Ms. MCKINNEY, Mr. GUTIERREZ, and Mr. JACKSON of Illinois):

H. Res. 369. A resolution on reducing the risks and dangers associated with nuclear weapons in the new millennium; to the Committee on International Relations.

By Mr. PICKERING (for himself, Mr. WICKER, Mr. SHOWS, Mr. THOMPSON of Mississippi, Mr. TAYLOR of Mississippi, Mr. HASTERT, and Mr. LARGENT):

H. Res. 370. A resolution recognizing and honoring Walter Payton and expressing the condolences of the House of Representatives to his family on his death; to the Committee on Government Reform.

By Mr. SHOWS:

H. Res. 371. A resolution providing for consideration of the bill (H.R. 664) to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Rules.

By Mr. STARK (for himself and Mr. BROWN of Ohio):

H. Res. 372. A resolution providing for consideration of the bill (H.R. 1495) to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

280. The SPEAKER presented a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 303 encouraging and supporting Governor George Ryan's decision to immediately engage the Administrator of the United States Environmental Protection Agency in a dialogue towards meeting and resolving the technical challenges of using ethanol in Phase II RFG; that the dialogue shall include presentation of recent research data suggesting ethanol benefits and the request that the U.S. Environmental Protection Agency permit the continued use of ethanol under phase II of the RFG Program in a way that will not economically disadvantage Illinois' to the Committee on Commerce.

281. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 229 memorializing the United States Congress to pass H.R. 8; to the Committee on Ways and Means.

282. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 160 memorializing the Illinois congressional delegation to influence and guide the federal budgeting process for FFY 2000 and beyond to restore full funding for Social Service Block Grant/Title XX Program and incrementally increase funding for this essential program as future federal budget opportunities present themselves; to the Committee on Ways and Means.

283. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 95 memorializing Congress to take the steps to strengthen Social Security so that all Americans can be assured that the program will be there for them; to the Committee on Ways and Means.

284. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 228 memorializing the U.S. Congress to pass H.R. 2; jointly to the Committees on Education and the Workforce and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. TAYLOR of Mississippi introduced a bill (H.R. 3289) for the relief of Janet Louise Ruehling; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 303: Mr. SCOTT, Mr. MARKEY, Mrs. LOWEY, Mr. MEEKS of New York, and Mr. WELDON of Pennsylvania.

H.R. 372: Mr. ENGEL and Mr. SMITH of New Jersey.

H.R. 382: Mr. MINK of Hawaii, Ms. BALDWIN, Mr. TOWNS, Mr. JACKSON of Illinois, Mr. PHELPS, and Ms. WOOLSEY.

H.R. 443: Mr. MOAKLEY, Mr. BASS, Mr. HASTINGS of Florida, Mr. MENENDEZ, Mr. HOLT, Mr. ANDREWS, Mr. WU, and Mr. FRELINGHUYSEN.

H.R. 453: Mr. UDALL of Colorado and Mr. WYNN.

H.R. 460: Mr. HOYER.

H.R. 475: Mr. ROMERO-BARCELO, Mr. FALEOMAVAEGA, and Ms. MCKINNEY.

H.R. 493: Mr. BARTON of Texas.

H.R. 534: Mr. JOHN and Mr. POMEROY.

H.R. 692: Mr. YOUNG of Florida.

H.R. 708: Ms. NORTON.

H.R. 721: Mr. SANFORD.

H.R. 742: Ms. HOOLEY of Oregon.

H.R. 750: Ms. HOOLEY of Oregon and Mr. FORBES.

H.R. 783: Ms. DUNN, Mr. CROWLEY, and Mr. HUTCHINSON.

H.R. 876: Mr. BURR of North Carolina.

H.R. 925: Mr. FARR of California.

H.R. 936: Mr. BARTLETT of Maryland.

H.R. 980: Mr. BOSWELL.

H.R. 1044: Mr. BUYER, Mr. COOK, Mr. GOODE, and Mr. SOUDER.

H.R. 1046: Mr. LAHOOD.

H.R. 1071: Mr. BAIRD, Mr. FALEOMAVAEGA, and Mr. HERGER.

H.R. 1111: Mr. FLETCHER.

H.R. 1163: Mr. KUCINICH.

H.R. 1168: Mr. OWENS.

H.R. 1215: Mr. WU.

H.R. 1226: Ms. SLAUGHTER and Mr. DAVIS of Florida.

H.R. 1238: Mrs. MALONEY of New York.

H.R. 1248: Mr. FORD.

H.R. 1275: Mr. FILNER, Mr. WELDON of Florida, Mr. MALONEY of Connecticut, Mr. TANCREDO, Mr. WEXLER, Mr. GALLEGLY, Mr. HORN, Mr. HOLT, and Mr. ANDREWS.

H.R. 1286: Ms. NORTON and Mr. RYAN of Wisconsin.

H.R. 1356: Mr. STUPAK.

H.R. 1478: Mr. KUCINICH.

H.R. 1504: Mr. PICKERING and Mr. MINGE.

H.R. 1525: Mr. GUTIERREZ.

H.R. 1594: Mr. SMITH of Washington and Mr. CLAY.

H.R. 1601: Mr. ISAKSON, Mrs. FOWLER, Mr. BASS, Ms. RIVERS, and Ms. STABENOW.

H.R. 1622: Mr. SCHAKOWSKY, Mr. PHELPS, and Ms. LEE.

H.R. 1625: Mr. TIERNEY and Mr. KANJORSKI.

H.R. 1671: Mr. MCNULTY.

H.R. 1681: Mr. THOMPSON of Mississippi and Mr. FATTAH.

H.R. 1775: Mr. WELDON of Florida, and Mr. THOMPSON of Mississippi.

H.R. 1814: Mr. FRANKS of New Jersey.

H.R. 1816: Mr. LANTOS and Mr. GILCHREST.

H.R. 1841: Mr. BLUMENAUER and Mr. OWENS.

H.R. 1871: Mr. THOMPSON of Mississippi.

H.R. 1896: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. FOLEY.

H.R. 1899: Mr. MEEKS of New York.

H.R. 1917: Mr. SMITH of Washington.

H.R. 2233: Mrs. THURMAN.

H.R. 2241: Mrs. MEEK of Florida.

H.R. 2294: Mrs. MCCARTHY of New York.

H.R. 2298: Mr. THOMPSON of Mississippi.

H.R. 2335: Mr. NETHERCUTT, Mr. WYNN, Mr. OXLEY, Mrs. MYRICK, Mr. HOEKSTRA, Mr. PETERSON of Pennsylvania, and Mr. BOEHNER..

H.R. 2345: Mr. RANGEL.

H.R. 2372: Mr. BARR of Georgia, Mr. ISAKSON, and Mr. COMBEST.

H.R. 2376: Mr. GOODE.

H.R. 2412: Ms. CARSON, Mr. BURTON of Indiana, Mr. VISCLOSKY, Mr. ROEMER, Mr. HILL of Indiana, Mr. BUYER, Mr. PEASE, Mr. HOSTETTLER, and Mr. MCINTOSH.

H.R. 2420: Mr. VISCLOSKY, Mr. BISHOP, Mr. SIMPSON, Mr. MCDERMOTT, Mr. PITTS, Mr. LOBIONDO, Mr. MOLLOHAN, Mr. DAVIS of Illinois, and Mr. MENENDEZ.

H.R. 2498: Mr. STUPAK, Mrs. ROUKEMA, and Mr. SALMON.

H.R. 2512: Mr. FALEOMAVAEGA.

H.R. 2644: Mr. KUCINICH.

H.R. 2655: Mr. SESSIONS.

H.R. 2660: Mr. GOODE.

H.R. 2726: Mr. GOODE and Mr. RADANOVICH.

H.R. 2727: Mr. REGULA.

H.R. 2749: Mr. MORAN of Kansas.

H.R. 2815: Mr. LAMPSON.

H.R. 2831: Mr. OBERSTAR, Mr. FROST, Mr. DOYLE, Mr. WELDON of Pennsylvania, Mr. BARRETT of Wisconsin, and Mr. LAFALCE.

H.R. 2864: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. KIND, and Mrs. LOWEY.

H.R. 2906: Mr. PORTER.

H.R. 2939: Mr. THOMPSON of Mississippi.

H.R. 2966: Mrs. CHENOWETH-HAGE, Mr. CLEMENT, Mr. DAVIS of Virginia, Mr. DICKS, Mrs. NAPOLITANO, Mr. UPTON, Mr. BAIRD, Mr. BARR of Georgia, Mr. BERRY, Mrs. CAPPS, Mr. CHAMBLISS, Mr. COLLINS, Mr. CONDIT, Mr. DEAL of Georgia, Mr. DICKEY, Mr. GOODE, Mr. ISAKSON, Mr. LINDER, Mrs. MORELLA, Mr. PETERSON of Pennsylvania, Mr. RILEY, Mr. STEARNS, Mr. SWEENEY, Mr. WATKINS, Mr. WEINER, Mr. WOLF, and Mr. WU.

H.R. 3010: Mr. THOMPSON of Mississippi.

H.R. 3091: Mr. CANADY of Florida, Mr. LAHOOD, Mr. HASTINGS of Florida, Mr. BLUMENAUER, Mr. SANDLIN, Mr. WEINER, Mr. KUCINICH, Mr. BRADY of Pennsylvania, Mr. FROST, Mr. DIAZ-BALART, Mr. BENTSEN, Mr. DICKEY, Mr. KENNEDY of Rhode Island, Mr. KLINK, Mr. WYNN, and Mr. WEXLER.

H.R. 3100: Mr. GREENWOOD, Mr. LATHAM, Mr. QUINN, Mr. HORN, and Mr. REGULA.

H.R. 3107: Mr. OWENS, Mr. SANDERS, Mr. COYNE, and Mr. CAPUANO.

H.R. 3113: Mr. BARTON of Texas.

H.R. 3116: Mr. TALENT, Mr. HALL of Texas, Mr. HORN, Mr. EHLERS, Mr. KUYKENDALL, Mr. UPTON, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. GILCHREST, Mrs. THURMAN, and Mr. BOEHLERT.

H.R. 3142: Mr. BOEHLERT and Ms. MILLENDER-MCDONALD.

H.R. 3144: Mr. CONDIT, Mr. SISISKY, Mr. MATSUI, Mr. BOUCHER, Mr. CUMMINGS, and Mr. RAHALL.

H.R. 3148: Mr. PAYNE and Ms. DEGETTE.

H.R. 3159: Mr. KUCINICH.

H.R. 3173: Mr. BLUNT, Mr. NUSSLE, Mr. LUCAS of Oklahoma, Mr. MCHUGH, Mr. EVANS, Mr. LATHAM, Mr. OSE, Mrs. THURMAN, Mr. JOHN, Mr. FOLEY, and Mr. CANADY of Florida.

H.R. 3180: Mr. REGULA, Mr. DUNCAN, Mr. BILBRAY, and Mr. SAXTON.

H.R. 3192: Mr. QUINN, Mr. BROWN of Ohio, and Mr. STRICKLAND.

H.R. 3193: Mr. THOMPSON of California.

H.R. 3197: Mrs. LOWEY.

H.R. 3242: Mr. KLECZKA, Mr. GRAHAM, Mr. VITTER, Mr. BARRETT of Wisconsin, Mr. NETHERCUTT, Mr. NORWOOD, Mr. LATOURETTE, Mr. DEMINT, Mr. BACHUS, and Mr. DEAL of Georgia.

H.R. 3246: Mr. EWING.

H.J. Res. 41: Mr. GREEN of Texas.

H.J. Res. 53: Mr. MCKEON.

H.J. Res. 66: Mr. LARGENT, Mrs. MYRICK, Mr. COLLINS, and Mr. WHITFIELD.

H. Con. Res. 30: Mr. OSE.

H. Con. Res. 62: Mr. GREEN of Wisconsin.

H. Con. Res. 89: Mr. LIPINSKI.

H. Con. Res. 111: Ms. SCHAKOWSKY.

H. Con. Res. 152: Mr. MARTINEZ.

H. Con. Res. 169: Mr. PETERSON of Minnesota, Mr. WELDON of Pennsylvania, Mr. BLILEY, and Mr. WOLF.

H. Con. Res. 170: Mr. PETERSON of Minnesota, Mr. ROMERO-BARCELÓ, Mr. LIPINSKI, Mr. QUINN, Mr. SMITH of New Jersey, and Mr. WOLF.

H. Con. Res. 177: Mr. WAXMAN, Mr. HOLT, and Mr. OBERSTAR.

H. Con. Res. 186: Mr. CHABOT and Mr. SIMPSON.

H. Con. Res. 205: Ms. BERKLEY and Mr. GIBBONS.

H. Con. Res. 206: Mr. CARDIN and Mr. STARK.

H. Con. Res. 209: Mr. WEXLER, Mr. CAPUANO, Mr. THOMPSON of Mississippi, and Mr. PETRI.

H. Con. Res. 212: Mr. DOOLITTLE.

H. Con. Res. 216: Mr. ROTHMAN, Mr. BILIRAKIS, and Mr. WEXLER.

H. Con. Res. 218: Mr. UDALL of Colorado and Mr. MCNULTY.

H. Res. 146: Mr. COOK.

H. Res. 187: Mr. HOYER.

H. Res. 309: Mr. PAYNE, Mr. SMITH of New Jersey, Mr. OWENS, and Mr. KUCINICH.

H. Res. 332: Mr. DOOLITTLE.

H. Res. 340: Ms. LEE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. WHITFIELD.

H.R. 2907: Mr. BILIRAKIS.