HOUSE OF REPRESENTATIVES—*Thursday, September 27, 1990*

The House met at 10 a.m.

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

Our hearts are grateful, O God, for all those who labor for peace and security in our world. We remember in our prayer the members of the Armed Forces who leave home and family to do their duty in far places. We remember too the diplomats who seek to discover avenues of restraint and mutual agreement. May Your blessing be with all who work for peace that their efforts will bring a world of justice and people will know the good graces of Your good world. In Your name, we pray. Amen.

THE JOURNAL

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

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

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

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

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 115, not voting 48, as follows:

[Roll No. 388]

YEAS—269

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bartlett
Bateman
Bates
Bellenson
Bennett
Berman
Bevill
Bilbray
Boggs
Bonior
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Clarke
Clement
Clinger
Coleman (TX)
Combest
Condit
Conte
Cooper
Costello
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foglietta
Frank
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Richardson
Ritter
Roe
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sawyer
Scheuer
Schiff
Schneider
Schulze
Schumer
Serrano
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—115

Armey
Ballenger
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Campbell (CA)
Chandler
Coble
Coleman (MO)
Coughlin
Courter
Cox
Craig
Crane
Dannemeyer
Dickinson
Dornan (CA)
Douglas
Dreier
Duncan
Fawell
Fields
Gallegly
Gekas
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lukens, Donald
Machtley
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Oxley
Parris
Pashayan
Paxon
Porter
Pursell
Quillen
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Saiki
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stearns
Stump
Sundquist
Tauke
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weber
Weldon
Whittaker
Wolf
Young (FL)

NOT VOTING—48

Baker
Barnard
Barton
Bentley
Borski
Chapman
Clay
Collins
Conyers
Crockett
DeLay
Dixon
Edwards (OK)
Engel
Flake
Ford (MI)
Ford (TN)
Frenzel
Gaydos
Gingrich
Goodling
Hubbard
Ireland
LaFalce
Leath (TX)
Lowery (CA)
Mavroules
McCrery
McGrath
Mfume
Morella
Mrazek
Neal (NC)
Ray
Rinaldo
Robinson
Rose
Rostenkowski
Rowland (CT)
Sarpalius
Savage
Schuette
Towns
Udall
Vander Jagt
Washington
Williams
Young (AK)

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). The Chair will ask the gentleman from Louisiana [Mr. HOLLOWAY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. HOLLOWAY 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.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. CLEMENT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

the Committee on Public Works and Transportation be permitted to sit today, September 27, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

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

There was no objection.

WHERE IS THE PRESIDENT?

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

Mr. WISE. Mr. Speaker, with the budget talks stalemated, with the economy headed further down the skids, this is no time for people who can make a difference to be missing, but there is a face that is soon going to be appearing on the grocery shelves if he does not get back to Washington pretty soon.

Have you seen this person, Mr. Speaker? It is George Bush. He should be at the budget summit today.

This economy on Monday heads into precipitous times. Federal employees get furloughed. Our Republican and Democratic congressional leaders have been deadlocked in marathon negotiations, but they are deadlocked over a key issue, capital gains.

At a time when the President is proposing capital gains tax cuts, he is not even in the Capital to defend them. Where is he today? He is in Michigan. He is in Minnesota. He is in Ohio.

Where did he attack the Democrats from yesterday? Was it Washington? It was Ohio.

Mr. Speaker, bring him home. Come home, President Bush. Call a toll-free number. We will pick you up. Get to the summit where you belong.

FOUR DAYS TO ARMAGEDDON

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

Mr. GUNDERSON. Mr. Speaker, yesterday it was 5 days. Today it is 4 days to Armageddon.

Mr. Speaker, we complain about the President. The President submitted a budget to the Congress in January. We were supposed to have had an agreement between the House and the Senate by June. It is now September, 4 days left to Armageddon. Mr. Speaker, 4 days and 967,000 Federal employees will be furloughed because this Congress cannot meet its deadline.

What are we going to do today? We are going to bring up 19 suspensions—19 suspensions—when the country is on the border of chaos because the Congress cannot meet its deadline.

Mr. Speaker, ladies and gentlemen, we have got 4 days, 4 days to meet the agreement, or the American public will understand once again the Congress did not do its job.

PRESIDENT MUST PARTICIPATE IN PROCESS

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

Mr. TORRICELLI. Mr. Speaker, everybody is entitled to a vacation, and so when the President was boating in Maine while a crisis was unfolding in the Middle East, no one complained or, indeed, even mentioned it. But the summer is over, and 2 weeks ago while this institution was struggling with a budget crisis, the President was campaigning in California.

□ 1030

A few day ago, at a critical juncture, the President was playing golf. Yesterday, with the vital services of the Federal Government threatened by sequestration, the President was campaigning in Ohio. We all know the President likes to campaign. We all know his affinity for golf, but he was elected to govern.

This Congress can do most of the negotiating. We can bring most of the plans forward, but this President must still come to Washington and participate in this process. It is not as if he is not without responsibility. While Vice President, the last administration slashed revenues, doubled military spending, and sent this budget into default. Now, while he was also the director of deregulation, S&L's were sent into default.

Mr. President, get back to this town, govern, and get on with the business of being President.

INTRODUCTION OF PETROLEUM PRODUCERS BURDEN SHARING ACT OF 1990

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

Mr. CONTE. Mr. Speaker, I want to express my thanks to President Bush for stepping forward and tapping the strategic petroleum reserve. In response, the price of oil on the British market has already fallen almost $2 per barrel.

But we are not out of the thick of things yet. Prices have increased quickly every time Saddam Hussein opens his mouth, and we have asked the American consumer to pay. We have also asked Middle East potentates to pay. And we have asked our NATO allies to pay.

It is time to ask the oil companies to belly up to the bar and pay their fair share. On behalf of those who have sacrificed during this crisis, I have introduced the Petroleum Producers Burden Sharing Act of 1990.

Profits in the regular course of business are expected and encouraged. But, Mr. Speaker, windfall profits generated by an international crisis and price gouging at the expense of consumers are nothing more than gravy on the plate of big oil and should be taxed.

It has worked before Mr. Speaker. Between 1980 and 1988, about $80 billion was raised in gross Federal revenues from a windfall tax. Let us levy a windfall profits tax, and let us stop the price gougers from making a killing at the expense of consumers.

Join me and cosponsor the Petroleum Producers Burden Sharing Act of 1990.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair would remind Members to address the Speaker and not the President directly.

BE RESPONSIBLE, MR. PRESIDENT

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

Mr. SMITH of Florida. Mr. Speaker, yesterday the President of the United States said that it was not the problem of capital gains, it was Capitol Hill. But where did he say that from? He said it from a fundraiser in Ohio. A fundraiser.

He is not here in Washington trying to raise money to cure the deficit. He is in Ohio, and today in Michigan, and in Minnesota, trying to raise money for Republicans. Mr. President, who is he raising it from, at $1,000 a plate? It is fat cats and the special interests and the corporations.

Guess who, Mr. Speaker, is the beneficiaries of the capital gains cut that the President wants? It is the corporations and the fat cats and the special interests.

If the President of the United States, Mr. Speaker, spent as much time in Washington raising money for the country as he did for Republicans, there would be no deficit at all. Right, Mr. NAGLE? Is that right?

Mr. Speaker, the President ought to come home, sit at the table and discuss how to save the country from what the Republicans claim is the "Armageddon" with only 4 days to go. It is time to be responsible, Mr. President.

THE ENERGY ARMAGEDDON

(Mr. JAMES asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, yesterday the President announced his decision to begin selling off the reserves, the oil reserves. The effect on the markets this morning has so far been positive. All prices are dropping and should continue to drop. All companies, take note: Prices are going lower. The American people and Congress are expecting positive action.

However, we need an energy policy. Talk about an Armageddon, indeed we have one when it comes to the cost of the price of oil. Indeed we have an Armageddon, an energy Armageddon.

Remember in 1973 with the gas lines? Remember the prices? There were the equivalency, if we apply inflation, to well over $2.50 a gallon. Did that produce more oil, or less dependency on foreign oil? No, it did not. The oil companies did not try, it did not produce more energy.

We have an Armageddon. We had it 17 years ago, and we will have it again unless we develop an energy policy to control the situation now.

COME HOME TO WASHINGTON

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

Mr. SABO. Mr. Speaker, I am sure the President was welcomed with open arms in Minneapolis today. I know he was welcomed with open wallets at his $25,000 a head breakfast early this morning. I am sure the people there like his tax proposals.

However, it strikes me rather strange that while the Congress struggles and works, while we face imminent fiscal collapse of our Federal system, a person who was elected President is out acting as chairman of the GOP rather than as President.

Mr. President, I think it is time to come back to Washington. There is plenty of time after you have finished your work that the President can go back. It sure would be nice to have the Executive back in Washington doing the job he was elected to do.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to address the President directly but to address the Speaker.

DIVIDED COMMUNITIES UNITE

(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, in the midst of the Jewish holidays, someone spray painted a swastika on a small southwest Miami temple in my district which has been vandalized four other times in the last year and a half.

Members of the Anshe Emes Temple discovered the desecration last Thursday night as they arrived for a Rosh Hashanah service.

The Anti-Defamation League of B'nai B'rith is offering a $1,000 reward for information leading to the arrest and conviction of those who committed the crime.

Mr. Speaker, you have to wonder why someone would commit such a repulsive act. I hope that the culprits are caught soon.

It is sad and distressing to note that such anti-Semitic actions could still be taking place and that someone would commit such an atrocious act during the time of a sacred holiday.

It proves to us that more needs to be done to unite our divided communities.

PHONE HOME

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

Mr. ECKART. Mr. Speaker, George Bush, phone home.

CUT WILD SPENDING

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

Mr. SUNDQUIST. Mr. Speaker, it looks like the line of the day is to beat up on the President, but I would observe that some of the biggest spenders in this House are the ones that are trying to blame the budget impasse on the President and capital gains, when they ought to blame themselves for all their big spending.

Capital gains are not for the rich, and Members know that. It is for farmers, unless they are rich, and small businessmen, unless they are rich.

The other part of the problem is that it is the only part of the budget problem we are going to solve that will discuss the creation of jobs. This impasse is not the President's fault. It is the fault of this side of the aisle, some on this side of the aisle who refuse to stop spending and refuse to stop taxes. I am not going to argue to more taxes to fund your wild spending, and my constituents are not either. I think the constituents of this country will say the same thing. Let Members cut spending and get on with balancing the budget.

WHERE IS THE PRESIDENT?

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

Ms. KAPTUR. Mr. Speaker, I have been looking for the President. He called a budget summit a few months ago, and then he left the room. He is not even at the table, and the negotiators cannot find him. Yet he was the one that extended the invitation. Even his own party pulled his budget from this floor not so many weeks ago, I think with some fear of even offering it.

Now, I was looking for the President when we sent over 100,000 troops to the Middle East, and I could not find him then, either. He was out on the golf course; then I saw him in a boat. Well, I found him. He is in my home town in northern Ohio and he is campaigning and raising big money.

I say to the President if he is listening, the Constitution states the Executive power shall be vested in a President of the United States and he shall give to the Congress information on the State of the Union and recommend for their consideration such measures as he shall deem necessary and expedient.

I say to the President, come home. It is expedient. The Government closes down Monday. You ought to come back and do your job.

THE PRESIDENT'S WILLINGNESS TO COMPROMISE

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

Mr. SMITH of Vermont. Mr. Speaker, listening to the speeches this morning from some of the people in this House, I think we ought to ask them to rewind their tapes. The speeches might have been valid a week ago or 3 days ago even, but in fact again yesterday the President of the United States indicated his willingness to compromise in order to reach an agreement on the budget crisis in the budget summit.

Again, what that compromise did was put the pressure right where it ought to be, which is on the leadership of the U.S. Congress.

Many people say that the choice we now face is between recession and sequester. They both have one thing in common. That is that the people of the United States pay for the inability of the congressional leadership to provide leadership in this budget summit crisis. The real choice is between leadership or decline.

I would tell you it is time for the people of the United States to be put ahead of partisan politics, to be put ahead of the agendas of the leadership of this body, so that they do not have to pay for the leadership's failure to lead.

CUT THE PENTAGON WITH A CHAIN SAW

(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, I do not know why everybody is so surprised at the President. It is very simple. The military industrial complex has turned the Oval Office into the cockpit of a B-2 bomber. You cannot see it. You cannot hear it. You cannot even detect it on radar.

But what really should wilt the cabbages here today is the new Pentagon "Soviet Military Power" handbook. They have all these pictures of these new Soviet Mig's. Guess what? They are really old SU-27's. The Pentagon said it "was an honest mistake." Baloney!

Now, let me tell you what they are. SU-27's are so old, they are propelled by rubber bands that are hand cranked by Communist transvestites.

Mr. Speaker, what the hell is wrong with us? Let us cut the Pentagon with a chain saw. Let us stop this madness. Let us all do our jobs.

The Pentagon's got so much money over there they do not know what to do with it, and we are going bankrupt and maybe laying off Federal workers.

Shame on Congress. Shame.

BRING BACK THE CRIME BILL

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

Mr. McCOLLUM. Mr. Speaker, 2 days ago 85 Democrats joined every single Republican in voting down a very unfair rule on the crime bill so that we could bring up the Hyde amendment that incorporates the Powell Commission's recommendations on the restrictions on the appeals that a person who has been convicted and sentenced to the death penalty has to keep delaying the carrying out of that sentence interminably. That vote was an overwhelming rejection of the unfairness of that rule. It was on that one issue only.

The Members of this body and the American public demand the opportunity to vote on a tough crime bill this time, one that if brought to this floor would allow us to restore the death penalty for numerous Federal crimes, would allow us to vote and have a death penalty for drug kingpins who traffic in very large quantities of narcotics, that would change the rules of evidence to allow more contraband to be produced in courtrooms to get more convictions in drug cases, and yes, that would end these appeals that keep going on in death penalty cases; but instead of going back to the Rules Committee and getting a new rule that simply adds that one amendment that the majority wanted, we are seeing 19 suspensions out here, a lot of pabulum on the floor, instead of real legislation.

We have a chance to have a crime bill on the floor if the liberal Democratic leadership will give us that chance. We ought to demand that chance. We deserve that chance and the American people deserve it.

WHITE HOUSE INTRANSIGENCE

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

Mr. JOHNSON of South Dakota. Mr. Speaker, I am not one who believes that my political party has a lock on all good ideas. We urgently need a bipartisan agreement on the budget that takes the best ideas from both parties. Nevertheless, Mr. Speaker, I share your frustration over White House intransigence in demanding still more massive tax breaks for the wealthy, while proposing to "stick it" to middle class working and retired Americans.

According to the nonpartisan Congressional Budget Office, the President's proposal would cut taxes for Americans earning more than $50,000 per year by about $11 billion, but increases taxes on Americans earning less than $50,000 by $4 billion.

The fact that this impasse has now led to a serious look at Federal employee furloughs, huge cuts in Medicare and other disastrous options is outrageous.

Mr. Speaker, pursue a course which involves compromise and brings this budget negotiation to a responsible end, but do so without joining the White House in selling middle class and working Americans down the river.

PRESIDENT BUSH AND THE BUDGET

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is regrettable that my colleagues can think of nothing better to do than lambaste the President. It is regrettable and ludicrous.

Months ago this President had the courage to lay aside his own personal political interests for the sake of the public interest.

George Bush took the hit for stepping back on his commitment to no new taxes, which he still feels very strongly, but to open up the negotiations so that the public interest in deficit reduction and a budget could be addressed, George Bush put aside his political interests.

What have we seen from the other party that controls the House and the Senate? Have they put aside their political interests for the public interest? No.

Instead, they have claimed capital gains was the issue. They claimed it, though the majority leader in the other body himself espoused capital gains, tried to get it back into tax reform and has fought for it. He, too, like many of us who voted for capital gains, knows it is important.

Is it critical? Absolutely not.

Let us join together to put the public interest above partisan political interest.

Mr. Speaker, I know I have gone slightly over 1 minute, but the Chair allowed a number of my colleagues from the other side to go a minute and a half and two minutes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair has been equally fair to both sides of the aisle, scrupulously fair to both sides of the aisle.

A WISE DECISION ON RELEASING OIL

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

Mr. TAUZIN. Mr. Speaker, believe it or not, oil rig active accounts declined in Louisiana by five rigs last week. Nobody, not the domestic oil industry nor the American consumer believes the phony oil prices being generated by the oil traders in New York, and I am not sure how you spell that word "trader."

I want to commend the President for releasing 5 million barrels from the strategic petroleum reserves, but we have suggested a more permanent plan for release on a daily basis for the duration of this crisis to make sure those oil traders do not continue these phony oil prices for America. We have suggested a plan to refill that strategic petroleum reserve, financed by patriotic strategic petroleum bonds that the American public would buy and filled with oil wells that are dedicated and produce domestically for the strategic petroleum reserve.

But there is something else we could do today, I say to the President and Members of this House. We could ask FERC to release the 300 applications for natural gas pipelines that are sitting right now at the Federal Energy Regulatory Commission. We could produce natural gas in great quantity to supplement the supply of energy for America.

Mr. Speaker, it is time for us to demand the FERC to do its job, and I commend the President for trying on his part.

IN SUPPORT OF THE PRESIDENT'S RELEASE OF OIL

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

Mr. HOLLOWAY. Mr. Speaker, it is very unusual that us Louisianians would follow each other, but I rise in support of the President's move also today.

I would like to renew our knowledge of the fact that this strategic petroleum reserve is not there for a controlling process. It is there to be there when we need it, if we ever need it.

Today the price of oil is not the price it is because of a shortage of oil. It is there because of speculators out in the market driving the price up.

I compliment the President on the move to try this system, try the reserves to see that it works. It is a very important part of our country, a very important part that we have done here in the Congress to see that we do not get caught with our pants down in a situation that could happen today in the Middle East, but we do not want to use this oil strictly to control prices. It is there to be there when we need it.

□ 1050

I compliment the President and hope that we will continue to pump oil into this reserve and build it to a point where we can go 6 months without oil.

THE PRESIDENT SHOULD ATTEND THE BUDGET SUMMIT

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

Mrs. SCHROEDER. Mr. Speaker, the President is now playing politics as this Government prepares to crumble. You know, I for one love this institution; but it is not just me, people all over the world love this institution. It has caused people to put their lives on the line and get goose bumps as they have tried to create an institution like this.

This is representative Government, people elected by the people. And yet we have been unable for the last 10 years to get a President who wants to deal with this representative Government.

I think it is very, very important in these critical summit times that we have the President be there for his half of the bargain. He called the summit. I think it is only appropriate he attend the summit.

He insists on sending shields such as Sununu. It is like kissing through a picket fence.

Mr. President, come home, save this institution that the world is trying to emulate. Show how it can work.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair would remind Members not to address the President directly but to address the Speaker.

NO MORE BUCKS TO PASS

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

Mrs. BENTLEY. Mr. Speaker, the 11th hour—plus 59 minutes—has arrived. If Gramm-Rudman kicks in Sunday, the economy of the United States and the rest of the world will be disrupted.

The time for rhetoric and posturing has passed—the time for action has come.

I find it deplorable that an agreement has not been reached, and I find it equally objectionable that our inability to reach an agreement may force some of our colleagues into an untenable position—will they stay here or miss a Jewish high holiday, Yom Kippur, the most sacred day in their religious calendar.

But here we are still trying to pass the buck—pass it to Federal workers who must be furloughed, to contractors who need progress payments, or to beneficiaries in need of services? The problem is there are no more bucks to pass.

We are broke. I suggest that we should look beyond esoteric solutions such as exotic taxes. There is a relatively simple answer. It has been projected that the Treasury will take in an extra $80 billion in taxes next year. Freeze next year's expenditures at this year's levels. If we couple this with an effort to collect the first $20 billion of the $50 billion owed by foreign corporations, we would meet our budget reduction—and the Government could go on.

Simple. Yes. But it is criminal to ask the American people and Federal workers to ante up when foreign corporations do not pay their taxes.

TWO RELATED CRISES: PERSIAN GULF AND OUR BUDGET PROBLEMS

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

Mr. LEVINE of California. Mr. Speaker, our Nation is faced today with two very critical crises and emergencies, one in the Persian Gulf and one here at home with regard to our budget problems.

They are related in two very important respects. They are related in terms of potential fiscal policy and they are related in terms of energy policy.

Mr. Speaker, the gulf states whom we are appropriately defending right now in the Persian Gulf will be receiving some $70 billion in additional revenues this year alone from the increase in oil prices to them and the domestic American oil industry this year alone will also be increasing their profits to the tune of some $70 billion. That is an additional $100 billion to $150 billion of oil revenues coming in in the next year either because of this crisis or as an excuse for the crisis.

Mr. Speaker, let us use that revenue, the funds from the gulf, to pay for the defense of the gulf and let us use the domestic oil revenues to avoid the necessity to cut Medicare, to cut housing, to cut children's programs, and to cut education. That oil revenue, that $100 billion to $150 billion, can be put to very good use here at home in dealing with the budget crisis we face.

DEMOCRATS WANT PRESIDENT TRAPPED IN WASHINGTON AS A PRISONER

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

Mr. GINGRICH. Mr. Speaker, I have been listening with fascination to some of my Democratic colleagues who want the President to stay trapped in Washington as a prisoner.

Let me say first of all I participated in the budget summit. We spent 11 days out at Andrews Air Force Base, 4 months talking in rooms here. I think the problem the Democrats have to confront is that until they are prepared to reach an agreement, it would be silly for the President of the United States to agree to hang around in rooms waiting for endless hours while the Congress fights over what it is going to do.

He has fine representatives meeting in these summits. They are doing the job fine. But the real problem is not how many people can you get in a room; the real problem is that for 36 years the Democracts have controlled the House, for 36 years they have controlled every committee, for 36 years they have helped pass the tax bills, the spending bills, and now that we are down to the crunch they wish George Bush would solve it all.

The fact is in the next few days we had better get to the solution or there is going to be a sequester. I think it is the job of this Congress to stay in session and do what is necessary to avoid having to go to sequester.

THE AIDS CRISIS IN AFRICA

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

Mr. McDERMOTT. Mr. Speaker, I recently returned from 2 weeks in Africa, where I had a chance to examine the extent of the AIDS epidemic there.

I was astounded by the staggering death toll facing Africa. AIDS is devastating this continent. In some countries, it threatens to wipe out an entire generation of future workers and future leaders. In Zimbabwe, some 40 percent of newborns in urban hospitals are HV positive. Half of that country's children may die from AIDS, and the other half may well be orphaned by it.

The United States has been responsive to the epidemic in Africa, providing the world's largest share of resources to AIDS programs. As a result of my visit, I believe we need to strengthen and refocus our efforts. We need to emphasize community-based approaches to education and prevention, focus our attention on the youth who are being disportionately hit by this disease, and work harder for the empowerment of women.

Africa is a continent in peril. All of our development assistance will be rendered virtually irrelevant if we do not offer the best help we can now. I urge my colleagues to support efforts to help Africa combat this devastating epidemic.

POLITICS JUSTIFIES A MORATORIUM ON DECENCY AND COMMON SENSE

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

Mr. PARRIS. Mr. Speaker, I have been around this House now for 18 years off and on.

I came here first in 1972, and I have seen a lot of changes in this Congress in that period of time.

One of the changes I regret most of all is that there are not any real good Democrats, demagogues, or hypocrites left around here any more. That is really too bad.

The only thing we seem to be able to agree on is that politics justifies a moratorium on decency and common sense.

The Democrats have controlled this place since I was in college. If I were the President of the United States, I would get as far away from this House as I could, as well he has, because the performance of this Congress has been nothing short of dismal.

We all understand why he does not want any part of it, and you should too.

THE BUDGET SUMMIT NEARS THE ZERO HOUR

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

Mr. OWENS of Utah. Mr. Speaker, Sunday is the end of the fiscal year, as everybody knows. The budget summiteers are nearing the zero hour. Some say you have to create a crisis to get anything done in this country. Well, this crisis is real.

Sequestration will cripple essential Government services, like air traffic control, drug interdiction, and will furlough more than 2.4 million Federal workers.

Make no mistake about it, when you close down the Government you close down the economy.

Already teetering on the brink of recession, the American economy will fall into major economic turmoil if Gramm-Rudman hits, let there be no doubt about that.

The administration took a step in the right direction yesterday by signalling a willlingness to accept indexation of capital gains for inflation. Indexation combined with other growth measures, like a research and development tax credit, might help us overcome the hurdle of a budget agreement and set us on a course for economic recovery.

We are close; let us stay in session this week and until we make a budget decision.

THOUGHTS ON POSTURING WITH RESPECT TO OUR BUDGET AGREEMENT

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

Mr. SHAW. Mr. Speaker, many of the Members, my friends on the Democratic side, have had great fun this morning addressing the President, even to the extent of having to be called down and admonished by the Speaker on several occasions.

I would say to those who have been getting up and doing all this posturing that: Where is our budget agreement? Where is the fulfillment of the congressional responsibility?

We have to remember we are here in this summit right now because we have been unable to pass any appropriation bills which should have been passed and on the President's desk by now.

□ 1100

The Congress has failed to agree on a budget with the Senate. The Congress has failed to come up with a plan that is going to fulfill our obligations under the Gramm-Rudman plan.

So, while we are busy pointing fingers at the President, I can understand politics, and I can understand this is a political year, but let us be fair, and criticize ourselves, and look at ourselves and say, "We have not fulfilled our responsibility," and I, as my colleagues are, am going to have to look to the President for leadership and responsibility because it does not exist in this House.

Let us get together. Let us bring forth some leadership. Let us bring forth a budget and a plan that is going to work and come within the confines that we have set down. Let us be responsible. Let us tell the American people that we can govern.

CUT FOREIGN AID, NOT MEDICARE

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

Mr. FRANK. Mr. Speaker, I will accept my colleague's invitation to be self-critical. We in this Congress have not addressed the budget as quickly as we can, although my colleagues on the other side have an understandable historical blank when they talk about this long Democratic control of Congress. For them the good news was that their party controlled the U.S. Senate for 6 years. They appear also, understandably, to think that was the bad news, so they neglect it.

Mr. Speaker, for most of this decade we had divided party control of Congress, but we have been laggard, but we have been laggard largely because of my Republican friends' opposition to recognizing a central change in the world, and that is the fact that our allies no longer need the more than $100 billion per year of military subsidy they receive, and in the budget negotiations they are for cutting Medicare, and we are for saying that we should stop subsidizing the defense budgets of Western Europe and Asia, those wealthy nations over there. They are for cutting student loans, and we are for cutting an unnecessary NATO. We are wrong not to have moved more quickly in that direction.

THE ONLY INSANE ASYLUM RUN BY ITS OWN INMATES

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

Mr. LIGHTFOOT. Mr. Speaker, it is not very often that I speak on the House floor, and, when I do, I try to do it with the dignity that this body deserves.

However, my colleagues, ladies and gentlemen, men and women, boys and girls of all ages, are witnessing the most expensive circus on the face of the Earth. If my colleagues listen to the President bashing, the horse manure that has been spread here this morning, I would say we could put the entire fertilizer business in this country out of business. Is it any wonder

that the people of this Nation view us as the only insane asylum that is operated by its own inmates?

I would suggest to my colleagues that many Republicans and good conservative Democrats are sick and tired of being cast and forced into the role of playing the clown. It is time that this circus closed and left town.

PARTY PEOPLE

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

Mr. APPLEGATE. Mr. Speaker, let me ask my colleagues this: Why not criticize the President of the United States? He is elected by the people, just like we are. He is no different, no higher, no lower.

The fact of the matter is that the President is in Ohio, at a very expensive party over there at $25,000 a ticket, very expensive, taking very cheap political shots. Mr. Speaker, at 25 grand a ticket, he sure is not representing mainstream America. He is partying with those people who are going to gain the most from capital gains, but he is forgetting those who are suffering the most from capital loss.

That is right, folks. The President wants to zap the poor, the elderly, the sick, the young, the veterans, the working people in America, and then he wants to turn around and give it to the Trumps and the Icahns. He wants to give it to the Rockefellers, and the Pickens, and all those other people.

I say to my colleagues, "You know, don't blame mainstream America. Blame yourself and assume the responsibilities that you're supposed to be assuming."

SUMMITEERS ABOUT TO HELP PLUNGE OUR COUNTRY INTO RECESSION

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

Mr. SHUSTER. My colleagues, the summiteers are about to help plunge this country into a recession. They are talking now about an 8-cent fuel tax, not to improve American's transportation system, but rather to go 75 percent, at least, toward deficit reduction, and, yes, to keep the other 25 percent bottled up in a trust fund that already has a bloated $16 billion surplus. They are talking about imposing an 8-cent fuel tax at a time when the world oil prices are going through the ceiling, and an 8-cent fuel tax at the time when we are on the edge of a recession, an increased fuel tax at a time when the cost of moving goods, and services and people in this country are at an all-time high, and, yes, an 8-cent fuel tax that would be grossly unfair to rural America because rural Americans do not have the mass transit systems, and they must drive about twice as many miles a year as urban America.

Mr. Speaker, last week the Committee on Public Works and Transportation unanimously passed a resolution opposing such a gas tax as a supposed deficit reduction measure, and I urge all my colleagues to join us by saying this is one tax that is totally unacceptable to this Congress.

DEFICIT REDUCTION NOW—TAX CUTS LATER

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

Mr. MOODY. Mr. Speaker, despite the smokescreen and partisan rhetoric thrown up at various fat-cat fund raisers by the President in Cleveland, Minneapolis and elsewhere surrounded by Secret Service and thousands of dollars of taxpayer expense as he takes cheap partisan shots, the fact is that the summit is still hung up on the issue of capital gains, or how to pay for it, and who gets it? The Democrats are insisting that the capital gains, if there be one, be paid for by the very people who would benefit. The GOP proposal still would not do it. It would sock it once again to the middle class who have been hurt already through the whole decade of the 1980's. Under the GOP proposal, as it still stands 60 percent of the benefit would go to 1 percent of the people who make over $200,000 apiece. Sixty percent of the benefit would go to 1 percent of the people. That is still the proposal on the table. Eighty percent would go to those 2 percent who make over $100,000.

To use the deficit crisis and brinksmanship with the budget to provide a new tax cut to the most wealthy among us is simply wrong. First things first. Deficit reduction now. More tax cuts for the wealthy later, much later.

REVENUE LUSTING LIBERAL DEMOCRATS NEVER GET ENOUGH

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

Mr. DORNAN of California. Mr. Speaker, the revenue lusting liberal Democrats on the majority side of the aisle remind me of the character, Johnny Rocco, in the classic film "Key Largo." Remember the incomparable Eddie G. Robinson's portrayal?

Particularly appropriate, Mr. Speaker, was this exchange with Humphrey Bogart. Listen to this.

Humphrey Bogart asked Edward G. Robinson: "Awright; what do you want, Rocco?"

Eddie G.: "I want more. See. More."

Bogie: "Will you ever have enough, Rocco?"

E.G.R.: "No, never. Never have. Guess I never will either."

Now I submit, Mr. Speaker, that Johnny Rocco would fit in beautifully on the majority side of this aisle.

Mr. Speaker, the Johnny Rocco's, like MARTY "ROCCO" RUSSO, or GEORGE "THE HAMMER" MILLER, those people on the other side of the aisle, all they want is more. They insist that if the President wants a capital gains tax, which will spur investment, increase tax revenue, and produce jobs, then they are going to insist on another tax increase for the rich. But who are the rich, Mr. Speaker?

If repealing the so-called bubble is a tax-the-rich plan, as its supporters claim, then we know that those Johnny Rocco Democrats believe that the rich are those individuals who make over $47,000 or joint income families who earn over $78,000.

I say to me colleagues, since we make 90-plus thousand dollars, that must make us superrich. And if that is so, why do we need a pay raise next year? If we're superrich, we can get by without a pay raise. We can handle it. Can't we?

I have news for all the, my class-warfare colleagues, $47,000 is not the income of a rich person, especially in my Orange County, CA, where the average price of a home is over $230,000.

I think it is disgraceful, Mr. Speaker, that the liberals are mocking the American people with their class-warfare rhetoric when their real target is the middle class. You know as well as I do, Mr. Speaker, that the only way to raise the type of revenue the Johnny Rocco Democrats are talking about is to tax the middle class.

George Bush has gone the extra mile to get an agreement with the liberals in this Chamber and has nothing—nada, zip—to show for his trouble. Why he thought he could deal with the Johnny Rocco Democrats around here I'll never know.

Well, I have a solution. If you liberals in this Chamber think you have all the answers, then you should pull out of the summit and complete the budget process on your own. Pass your appropriations bills and your tax-increase bill and send them on to the President and let him make the decision to veto or not to veto. I think we all know why you won't do that. It's because you class-warfare libs want it all, like Johnny Rocco. You want to continue spending like drunken sailors, with apologies to modern day sailors for the unflattering comparison, and get President George Bush to do the dirty work of raising taxes for you.

On reflection, Johnny Rocco was a piker compared to the crowd on the majority side of the aisle.

A CHOICE IN THE CLEAN AIR ACT: CLEAN AIR FUELS OR MOTORS TO CLEAN DIRTY FUELS

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

Mr. ALEXANDER. Mr. Speaker, I am concerned about a letter from the White House of the chairman of the Committee on Energy and Commerce dated September 21, 1990.

I am concerned because that letter vacillates on the President's commitment to expand the use of cleaner burning oxygenated fuels, such as ethanol, methanol, and compressed natural gas, to help reduce pollution and make American less dependent on foreign oil.

The choice facing us is clear: We can produce clean air fuels or manufacture motor vehicles which will clean up dirty fuels.

I believe the least costly course is to clean up our fuel supply—using farm grown ethanol and other alternative fuels such as methanol and compressed natural gas.

Of course, the oil companies don't want this. They don't want to share their $100 billion market with alternate fuels suppliers. But, we cannot allow those companies to continue to dictate the country's energy policy.

It is a policy which had lead us to a dangerous dependence on foreign oil and foreign credit; made our economy hostage to the likes of Saddam Hussein; forced us to spend billions to protect our foreign oil supplies with U.S. military forces and has many of our people gasping for breath because of dirty auto emissions.

□ 1110

Mr. Speaker, the letter from the White House expressed concern that switching to alternate fuels might be too expensive.

On the contrary, it is much more expensive to spend more than 1 billion a month to protect the oil supply in the Middle East. A recent study showed, for example, that when you factor in only the cost of foreign aid and military operations, foreign oil is already costing us $80 a barrel.

I believe the figure is much higher.

Alternate fuels will make our country more reliant on our own natural resources for the energy to power our economy, help clean our air, put more money in America's alternative energy economy and eliminate the necessity of military spending to keep foreign oil flowing.

For less money than we are now spending to protect a foreign oil supply we can have a national energy policy based on clean air fuels which will not only reduce pollution but allow us to bring our troops home from Saudi Arabia.

Mr. Speaker, for all these reasons, I urge conferees on the Clean Air Act to hold the line on expanded use of alternate fuels.

There is simply too much at stake to retreat.

SPENDERS IN CONGRESS HAVE NOT REFORMED

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

Mr. MARLENEE. No budget agreement; spenders whine for more taxes; penalize those who invest and create jobs. That seems to be the credo here. Federal employee checks about to be confiscated.

Is there concern? Apparently not. They want to confiscate those paychecks to pay for irresponsible spending. New programs to cater to special interest groups. Foreign aid, family planning for Romania. Twenty-one suspensions today, 10 suspensions last Monday, 18 suspensions the week before. Brand new authorizations. Those authorizations mean brand new spending.

Suspensions, what a clever way to get Christmas tree spending without accountability. It is time that the people of the United States of America start looking at that voting record. It is time that we call a vote on every single suspension. We have had darn near 50 of them here, amounting to hundreds of millions of dollars in new authorizations. Read the RECORD. See how they voted, Democrat and Republican alike. If you look at last week and this week, where we had spending records, you will see that they have not reformed, not in the least.

CONGRESS AND PRESIDENT MUST SHOW RESPONSIBILITY ON BUDGET PLAN

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

Mr. CLEMENT. Mr. Speaker, I brought my pillow, I brought my blanket, and I am prepared to stay here Thursday, Friday, Saturday, and Sunday, in order for us to make a decision on this critical budget agreement that we have before us.

Mr. Speaker, all of us know that unemployment is rising and the inflationary rate is spiraling. Our economy is very soft. We need some stability, some confidence. We need a budget agreement.

I would like to see that there is some hope, some opportunity for us to vote on some plan, whether it be a Republican plan, a Democrat plan, a bipartisan plan, prior to October 1, when the hammer is to be dropped. But what we need also is Presidential leadership, for him to present a plan, and for us to consider it. That ingredient, that dimension, is still lacking.

Mr. Speaker, we need to do what is necessary now. Let us move forward with voting on a budget plan, a budget agreement, now, before October 1, to show responsibility on behalf of the President and the U.S. Congress.

JAPAN MUST LIVE UP TO 1981 COMMITMENTS

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

Mr. SCHUMER. Mr. Speaker, today, Prime Minister Kaifu of Japan visits our country with a pocket full of commitments for helping share the burden of defending the Persian Gulf. But it is hard to depend on these promises, however, when the fact remains that Japan has failed to live up to its commitment in the past.

Back in 1981, Japan agreed to purchase the necessary military equipment to assume responsibility for defense of the air space and sea lanes around Japan out to 1,000 miles.

Nine years later, none of the approximately 35 AWACS aircraft and support tankers essential to this mission have been purchased—not one.

And this week, we learned that Japan's latest 5-year defense plan will push the acquisition of the necessary number of aircraft well in to the next century.

The strategic ramifications of this failure are immense. In order to enforce an air embargo in the Persian Gulf, we have had to drain early warning aircraft from the Pacific, leaving this region naked to potential aggression.

This morning, I and 70 colleagues from both parties wrote to Secretary of State Baker demanding that Japan live up to its 1981 commitment. When the President meets with Prime Minister Kaifu in New York tomorrow, he must make it clear that 9 years of delays and unfulfilled promises are simply unacceptable to the American people.

BUDGET MUST ADDRESS HUMAN CONCERNS

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

Mr. DELLUMS. Mr. Speaker, one of the Members earlier today suggested that there are no good Democrats in the House of Representatives. I would

suggest that 24 Members who comprise the Congressional Black Caucus are the true Democrats and may be the true Democrats of the Congress of the United States.

Five years ago, on October 11, this House of Representatives passed a bill known as Gramm-Rudman. On October 11, this gentleman, now in the House for 20 years, made the following statement:

The House vote today is one of the most serious setbacks for democracy in my 15 years in the Congress. It is a triumph of process over substance, but one in which the process itself has been subverted.

Mr. Speaker, we now stand on the threshold of a Hobson's choice. Either we will be locked into a 5-year plan that further savages America's capacity to save its children and address the human misery of its people, or we face sequestration.

Mr. Speaker, Members on both sides of the aisle, and American people, I ask you to reject both alternatives. Let us set aside this madness. Let us move away from Gramm-Rudman and get back to the drawing board and truly write a budget that addressed the human misery and the human concerns that are real in America. Gramm-Rudman is a mindless approach to budgeting that lacks compassion and accountability.

POLITICIANS IN GLASS HOUSES SHOULD NOT THROW STONES

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

Mr. WALKER. Mr. Speaker, we have heard criticism of the President this morning for not being at the budget summit table and out playing politics. I found that very fascinating. I wonder how many times in the last year we have not done legislative business in order to accommodate celebrity golf tournaments. In the last year we have not done business in the House in order to accommodate Democratic fundraising dinners. In the last year we have not done business in the House of Representatives in order to accommodate receptions that Democratic leaders were having in order to raise money.

Mr. Speaker, those are the kinds of issues that have not been brought up by any of these people at the time that those were being done.

As for raising money, it is interesting that the President is out raising money in an open setting. What about all those S&L dollars that paid for the DCCC's of campaigning on behalf of nearly all of the Members on the other side of the aisle? Is all of that S&L money being looked at as we legislate? Well, this week we had a crime bill that did not make it to the floor because it did not get a rule, but it had a provision in it to allow the S&L crooks to keep their mansions.

It seems to me that maybe they still are getting their chance to participate in the great American dream as defined by the Democrats. I think when we talk about playing politics, we had better be pretty careful. There are a lot of glass houses.

PROVE WHO IS SINCERE

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

Mr. SOLOMON. Mr. Speaker, I have listened to all of the 1-minutes here, and if this was not such a serious time, I guess we could all kind of laugh and enjoy it. But this is not a laughing matter.

Mr. Speaker, I mentioned the other day that since I came to Congress, as a matter of fact only about 8 years ago, the Federal revenues coming into the coffers annually were about $500 billion. Now, 8 years later, the annual revenues are over $1 trillion, and we have not raised taxes at all during that period of time.

The Federal revenues have doubled from economic growth that has created 20 million jobs in this country for your constituents and mine.

Then I hear all this talk about the capital gains tax and whether that is good or bad. But I will tell you what I really believe: I think the Democratic Party is trying to push this country into a recession. I think that you think political power is so important that you are willing to put people out of work in this country, because that is what you are trying to jam down the throats of the American people, by taking more money out of their pockets to feed your desire for more programs here. I just think we really ought to sit down and try to do something about it. Let us see who really is sincere.

□ 1120

LET US GET AMERICA BACK ON TRACK

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

Mr. DORGAN of North Dakota. Mr. Speaker, this smoke screen is not going to obscure the truth about the budget summit. Senator DOLE was quoted in the paper 2 days ago as saying the hangup on the budget summit is the President's insistence on the capital gains tax cut.

There has been proposed from the Democratic side of the aisle deep, deep spending cuts, across the board. But the hangup is that the President insists on capital gains tax cuts for the rich as a precondition for a deficit reduction agreement.

Let me describe what kind of cuts he is talking about. He is saying, "I want an average of $25,000 a year tax cut for those Americans with over $200,000 in income," in a package that is supposed to reduce the deficit. Obviously we have not agreed to that. It is foolish. It does not make any sense at all. We are supposed to reduce the deficit, not reduce taxes for the rich.

Yes, let us put aside the partisanship. Let us finally start to get a deal, not with capital gains tax cuts for the rich, but with some additional revenue, with some spending cuts, and let us then put the country back on track. Let us do it soon. The 11th hour is approaching, in fact, the twelfth hour is approaching.

We need leadership, now from the President and also from the Members of Congress to put America back on track.

PROVIDING FOR CONSIDERATION OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 478 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 478

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the 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, and 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 committee amendment in the nature of a substitute. 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 (Mr. McNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 478 is an open rule which provides for the consideration of H.R. 2039, the Job Training Partnership Act Amendments of 1990.

The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6), rule XI, are waived. This rule requires that committee reports be made available for Members for 3 days prior to floor consideration. Mr. Speaker, it is late in the session and this is an important piece of legislation which needs to be considered by the full House. The waiver of clause 2(l)(6), rule XI is necessary and prudent.

The rule also makes it in order to consider an amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for purpose of amendment under the 5-minute rule, and each section shall be considered as having been read.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the Job Training Partnership Act, commonly known as the JTPA, was established in 1982. Since its inception, the JTPA has put into force an effective job training system through a partnership between the Federal Government and the private sector.

H.R. 2039 seeks to improve the JTPA partnership infrastructure by increasing the quality of services and targeting benefits to those most in need of job training.

Mr. Speaker, H.R. 2039 addresses concerns raised by a 1989 GAO study which concludes that high school dropouts are not well served under the current law. In 1987, nearly two-thirds of those individuals trained and successfully placed under the JTPA Program were high school graduates.

H.R. 2039 preserves the public-private partnership which has worked well over the past 8 years. This legislation improves upon the partnership in five major areas:

First, the bill requires that each participant's skill level and service needs be assessed. The Committee on Education and Labor correctly concludes that to effectively address an individual's needs, the program must first determine what type of training would be most effective for the individual participant.

Second, the bill requires an individual service strategy be developed for each participant to assess employment goals and achievement objectives.

Third, each service delivery area under the JTPA must provide core services to adults and youth.

Fourth, the committee bill calls for job search techniques training and work experience activities to be coupled with programs designed to increase the participant's educational and occupational skills.

And finally, the bill provides for counseling and support services to participants for up to 1 year after completion of the program.

Mr. Speaker, now more than ever we need a work force which is educated and skilled. A productive work force can be achieved through education, vocational training, and a healthy economy. H.R. 2039 is a giant step toward the goal of having an educated, trained, and productive American work force.

I urge my colleagues to join me in adopting House Resolution 478 so that we may proceed with the consideration of H.R. 2039.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentlewoman from New York has ably explained the provision of the rule.

Mr. Speaker, I would like to commend the chairman and the ranking Republican member of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] for their leadership in moving this legislation to the House floor.

Training people for jobs so they can get off the welfare rolls and onto the work rolls is an important undertaking. The Job Training Partnership Act has been a successful program in preparing Americans to support themselves by their own efforts.

I should mention that the administration supports legislation to make this successful program even better. However, the administration has pointed out a number of areas in this particular bill they would like to see improved. One problem is excessive funding. Authorizations for adult and youth employment and training programs exceed the President's fiscal year 1991 budget request by more than $300 million.

The rule reported by the Rules Committee is an open rule, so it will provide an opportunity for necessary improvements to be made in the legislation.

I will support this rule so that the House can get down to business and act on the Job Training Partnership Act Amendments of 1990.

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

Ms. SLAUGHTER of New York. 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.

□ 1130

INTRODUCTION OF THE EDDIE RICKENBACKER GOLD MEDAL BILL

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

Mr. WYLIE. Mr. Speaker, today I am introducing a bill to strike a Congressional Gold Medal in recognition of the 100th anniversary of the birth of Capt. Eddie Rickenbacker.

Eddie Rickenbacker was an outstanding American from my hometown of Columbus, OH. His lifetime achievements are worthy of remembering through a Congressional Gold Medal awarded to his heirs.

In his early years he became internationally known as a famous race car driver. In fact, Eddie raced and finished in the first Indianapolis 500 in 1911.

Later, Eddie left Columbus to become a world hero during the First World War. Captain Rickenbacker was the commander of the 94th Aero Pursuit Squadron during that war, and for his valor in the air, he was known as the ace of aces. He is credited with downing 26 enemy aircraft during his service, far more than his closest competitor. For these achievements, he was recognized as a national hero.

The achievements of Captain Rickenbacker did not end, however, with the World War. He went on to become a leader of the commercial airline industry. He was president and director of Eastern Airlines during the infancy of commercial aviation.

Eddie further demonstrated his heroism during World War II. During a trip to the Pacific Theater as the Secretary of War's special representative, Eddie's B-17 was shot down. He drifted in the ocean for 23 days in enemy waters before being saved.

There will be a "Captain Eddie Premier Gala" on October 8 at the Ohio Theater—in connection with Columbus-USA weekend activities.

The gala will celebrate the 100th anniversary of Rickenbacker's birth as well as the 45th anniversary of the movie "Captain Eddie"—starring Fred MacMurray—which premiered at the Ohio Theater on August 1, 1945.

I am introducing this bill today, prior to the 100th anniversary of Eddie Rickenbacker's birth on October 8. My hope, is to work with the leadership of the Banking Committee's Consumer Affairs and Coinage Subcommittee, to comply with the subcommittee rules and pass this legislation early next year. I urge my colleagues in joining me in cosponsoring this bill, and recognizing the achievements of this great American from Columbus.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 478 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2039.

□ 1131

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. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, with Ms. SLAUGHTER of New York 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 California [Mr. MARTINEZ] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today we bring a comprehensive bill to the floor to amend the Job Training Partnership Act to improve its overall delivery.

Madam Chairman, for the past 7 years, our Nation has faced tremendous pressures from foreign trade competition, from massive structural unemployment, and economic market shifts, and from the ravages of a failed social and educational system that has left us with an enormous labor market skills need challenge. Yet during that time, the Job Training Partnership Act has ably met the challenges confronting our private sector.

To remind the House, this job training program is a unique marriage of public and sector partnerships formed to meet our Nation's employment needs. JTPA pioneered a necessary coordination between sectors of our economy including Federal, State, and local governments; between the educational and vocational systems; and between the vendors and purchasers of labor market services.

This partnership has worked. However, we must not stop there without making essential perfecting changes in this evolving program. The need for modification and clarification in this program has been recognized uniformly by the administration, the Senate, as well as this body.

I must commend the stellar efforts of the esteemed chairman of the Education and Labor Committee, GUS HAWKINS, for his dedication to the JTPA program, and for introducing this timely bill improving the delivery of job training services. I must also commend other Members who have made valuable contributions to this comprehensive bill including: Congressmen GOODLING, FORD, MILLER, WILLIAMS, OWENS, WASHINGTON, FUSTER, GUNDERSON, and BARTLETT.

Madam Chairman, I would like to briefly explain what the bill does. First it targets hard-to-serve workers; it improves targeting services and intervention for at-risk youth; we improve assessment for program eligibility; clarify and stress program and financial accountability; we specify allowable use of funds and activities; we improve performance standard measures; we retain education linkage setasides; we establish a national training institute to improve service delivery and professionalism in the program; we enhance the native American JTPA program; and finally, we improve the program data collection functions.

Madam Chairman, these essential changes are critical to getting the best we can out of this unique training system, while eliminating waste, fraud, and abuse. Some of you may have heard criticisms from portions of the JTPA community who feel they may be losing flexibility over financial and training aspects of the program. I urge you to keep in mind that this is a taxpayers program, not a giveaway program to line the pockets of groups and companies who do not feel they need to be accountable for moneys spent under this program.

I urge my colleagues to support this bill amending the Job Training Partnership Act and avoid amendments which would weaken the program delivery improvements.

Madam Chairman, I reserve the balance of my time.

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, as a whole, I support the bill before us today.

Despite the overall support, I do have some concerns about the bill that I hope we can resolve either through amendments today or in conference.

Before I talk about these concerns, I would like to discuss how we got to this point.

The Job Training Partnership Act was enacted in 1982 as a permanent authorization. It authorizes the major Federal legislation regarding employment and training programs for this Nation's disadvantaged and dislocated workers. For the most part, this program has worked to bring together State and local governmental entities with the private sector in order to provide supportive services and job training so that those most at risk in our labor market can obtain and retain employment.

For example, in my State of Pennsylvania, almost 570,000 residents, half of whom were on welfare before joining the program, have been served through JTPA since it began.

These amendments do not affect the basic structure of JTPA. Instead, they represent an effort to fine-tune the program and strengthen the basic program based upon recommendations from the employment and training community and the DOL, JTPA advisory and two reports, one from GAO and the other from the Office of the Inspector General. These amendments attempt to better target our Federal resources. I might also add that when the Secretary of Labor came back from a tour of many of these, she was so enthused but also recognized that we needed some changes, some of which are included today.

How is this targeting accomplished? First, the bill attempts to target services on the most at-risk by requiring at least 50 percent of the adult and youth served meet an additional barrier beyond being economically disadvantaged.

The bill also targets youth by separating the youth programs from the adult programs under the current law. In addition, with respect to youth, a change was made in the formula allocation which targets funding to those States and areas with high proportions of economically disadvantaged youth.

Further, the bill targets resources in a more effective manner overall by assuring that participants are assessed and programs designed to meet those specific needs.

A program to specifically target comprehensive coordinated services to disadvantaged youth in areas of high poverty, the Youth Opportunities Unlimited Program, is included in the bill. Originally included in the administration's bill, this proposal is an attempt to reach out to our youth who so often fall through the cracks and never have the opportunity to succeed.

I was pleased to introduce, along with several of my colleagues, the administration's bill over a year ago.

These amendments contain much of what was in that proposal.

However, there are elements of the bill that I do not believe support our efforts to improve the program but, rather, add to the paperwork burden and decreases local flexibility and decisionmaking.

□ 1140

It is my hope that before we send a bill to the President that we will be able to change or remove those provisions and make this legislation a stronger bill. All Members are interested in maintaining our competitive edge. As part of this effort, we need to strengthen the education and occupational skills of our most disadvantaged. We must enable every American, through our education and training programs, to meet the challenges of the workplace, so that we can continue to be a productive Nation. Without programs such as JTPA, we will have failed to meet this need, and we will have failed those disadvantaged individuals who are looking for a way to become part of the mainstream.

It is my intent to continue to work toward a bill that will achieve the overall goal of the improved training system that is sensitive to the complex and comprehensive education and training needs of our disadvantaged youth and adults. I will encourage my colleagues to join with me and support these amendments as part of that effort.

I want to commend those who worked, including the staff and the chairman of the subcommittee, and above all, the chairman of the full committee. This will be his last JTPA bill because he is running out on Members. He has earned his retirement, and we are going to miss him greatly. Certainly this program is one that he has fostered for a long, long time. In spite of what Members may have heard during the campaign, he and the gentleman from Michigan [Mr. FORD], the gentleman from California [Mr. MARTINEZ], and staff, including Beth Buehlmann as well as Senator JEFFORDS were those who were driving hard for this program.

Again, hopefully we can make a few changes, and that it will be a perfect bill that goes to the President's desk.

Madam Chairman, I reserve the balance of my time.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. HAWKINS], chairman of the full Education and Labor Committee.

Mr. HAWKINS. Madam Chairman, I rise in strong support of H.R. 2039, the Job Training Partnership Act Amendments of 1990.

For millions of Americans who are untrained, unemployed, or underemployed, job training offers an opportunity to catapult from poverty, low productivity, or dependency.

Eight years ago, I stood before this body, along with Members from both sides of the aisle, deliberating the conference agreement to the original Job Training Partnership Act [JTPA]. After extensive negotiations and tireless efforts to reach a bipartisan agreement, we developed what we envisioned as a workable and effective job training program. The legislation before us today builds upon that solid foundation and the lessons learned from almost a decade of JTPA experience.

The JTPA program has a permanent authorization and garners bipartisan support. Labor Secretary Dole reiterates that JTPA is a good program but can be improved to respond to the labor market of the 1990's. I believe that this bill makes significant strides in that direction.

Enactment of this bill is imperative. Each year, over half a million of our young people drop out of high school, and estimates are that an equal number graduate as functional illiterates. Millions of our citizens are without jobs, and the unemployment rate is higher than our full employment goal. Two-thirds of our present workforce will remain on the job at the turn of the century, and many are discovering that their skills are obsolete due to increased technology. Without adequate education, employment, and training interventions, the disadvantaged have no hope to improve their prospects for a lifetime of productive work.

H.R. 2039 offers a second chance to those individuals who have serious difficulties in the labor market. It ensures that job training services are focused directly on those least likely to succeed on their own.

This bill makes significant improvements to the JTPA program. Targeting will be tightened so that the harder-to-serve eligibles left behind by JTPA will queue closer to the front of the line. Not less than half of the participants must not only be poor, but have an additional barrier to employment. Incentive grants will be awarded to programs serving the neediest. More intensive, quality training will be required and performance outcomes will reflect this objective. Job search activities must be accompanied by additional services to increase the participant's basic educational and employability skills. Separate, but enriched, programs for adults and for youth will be established to address their particular labor market needs.

One of the fundamental goals of this legislation is to restore and revitalize the Federal role in employment and training programs. The public/private partnership, created under the original act, means that all partners must become actively involved in improving the quality of services and assuring the accountability and integrity of the JTPA system. Therefore, this bill strengthens the Federal role in program evaluation, technical assistance, performance standards, and fiscal accountability.

This bill also retains the 8-percent education set-aside which helps to foster coordination and collaboration between the job training and the education communities. These strong linkages are essential in light of the renewed forcus on basic skills and occupational training.

Recognizing the importance of youth interventions, H.R. 2039 retains the summer youth employment program under current law. Summer is a critical period for keeping young people on a productive path. By offering remediation, work-study programs, and valuable work experience, large numbers of disadvantaged youth are kept on a constructive track.

H.R. 2039 attempts to refocus JTPA's limited resources more effectively to deliver the best training to the disadvantaged. A consensus has emerged on the need to make the essential reforms called for in this bill.

I urge the Members of this body to pass this bill, so we can demonstrate to the American public and to the administration that we are committed to helping those less fortunate among us.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I rise in strong support of H.R. 2039, and I am delighted that this legislation has finally come to the floor of this House. Before I speak on the specifics of the bill, I want to join my ranking member and leader, the gentleman from Pennsylvania [Mr. GOODLING] in paying a special commendation to our chairman, the gentleman from California [Mr. HAWKINS]. Mr. HAWKINS is really the father, or at least the brains behind the creation of the Job Training Partnership Act.

Back in the early 1980's, when we all recognized problems with CETA, he was willing to take on the difficult task of developing the infrastructure and the foundation for this program that has worked so well. That is why, when we come here today to deal with the disadvantaged section of the Job Training Partnership Act, we come here not with a major rewrite, because this is legislation that has worked quite well. It has been an important key element in our overall work force preparation as we try to prepare America's work force for the 21st century, and particularly those who are disadvantaged for reasons beyond their control, economic, educationally, socially, or whatever the case might be.

The Job Training Partnership Act is a success story. Over 10 million individuals have been served since 1982.

Over 3 million of those have been permanently placed in good, well-paying jobs, with the opportunity to improve their life and their livelihood, and the quality of that life. What we are trying to do here today is to fine-tune that legislation, to make a good piece of legislation, a good program even better. How are we trying to do that? We are trying to better target it to the services to those most in need. Second, what we are trying to do is deal with both the youth and the adult programs, recognizing the difficult constituencies and the different needs of these programs. I am glad personally we were able to maintain the separate Summer Youth Program, despite efforts by others, including some in the administration, to change that. I think this was important to maintain a separate youth title.

Third, we do have a new program design, including enhanced assessment and followup, to further ensure a careful match between the participants' needs and skills, and services that the Job Training Act can provide.

It is a bill that does have some problems. We are not going to deal with all those problems today. We will have to deal with some, when and if the Senate completes action on this, and we can get to conference before the session. We run the risk here of damaging the major hallmark and foundation of the Job Training Partnership Act, which is local flexibility, the ability to adapt and develop those training programs to the unique needs of that local service delivery area. The OMB circulars, and other programs like that included within this legislation need to be modified, because if we do not, we will run the risk of having created the job paperwork program, not the Job Training Program.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], a senior member of the committee.

Mr. FORD of Michigan. Madam Chairman, this program arose out of a concern that grew over a period of years for programs that were central and grew out of the old CETA Program.

In 1982, this legislation was the result of somewhat different versions of legislation passed by the House and Senate, and was then negotiated in a long conference and became the legislation that we have basically had, without change, since that time. We have heard more about it probably than many Members want to during the last election when the gentleman from Indiana claimed credit for single-handedly rewriting it. I do remember seeing him at one meeting, so I cannot say he did not. There is a lot more that went on at that meeting than I apparently noticed.

Unfortunately, one of the States where we found the kind of problems that are being cleaned up now, was the gentleman's State, and one of the inherent weaknesses of this program has been that in our zeal to give maximum local control to people designing the programs and operating the programs, we overlooked the fact that there seems to be, inherent in that approach, a strong temptation to cheat. We found businessmen very badly abusing the program, the Job Training Program. The Labor Department inspector general named and told Members that the average on-the-job training program, where we pay 50 percent of the wages to train a dishwasher, was 20 weeks.

□ 1150

I submit there is not a whole lot of training in the third day of washing dishes, but nevertheless, they averaged 20 weeks, with 50 percent of the pay being paid.

Then we found when we looked into that that not all of them even bothered to hire any of the people they had trained for 20 weeks. They hired somebody else and trained them for 20 weeks.

Some of us started out with the idea that we were going to have to write very severe restrictions into this legislation, but in the meantime Secretary Dole, and I say this as a compliment to the Secretary and Assistant Secretary Jones, undertook a very aggressive program to root out these abuses around the country and through regulation in many cases they have reached the problem.

I looked into this for several years and found that the problem came to the attention of people as a result of local political activity. In Indiana, for example, it was an issue in the Governor's race, and the Governor who was Governor when the problem existed is no longer Governor. Somebody else now is the Governor, but he cannot have a program because he has to pay the money back that the Department of Labor said they got improperly in prior times.

Generally when the light of day is focused on these abuses, they are cleaned up rather quickly, and Secretary Dole is to be commended for what has happened since she has been Secretary of the Department of Labor and the kind of people that she has put in charge of this program.

I am satisfied that we do not need the kind of restrictive legislation that people like me were tempted to put into this package earlier on, and I am satisfied that the modest changes we make here, while needed, are consistent with what Secretary Dole has been trying to do to improve the administration of the program and that it will accomplish the purposes for which it was enacted.

Madam Chairman, I rise in support of H.R. 2039 and in praise of its principal author, the gentleman from California [Mr. HAWKINS].

It is no exaggeration to say that if it were not for Mr. HAWKINS there would be no Federal job training program at all. His deep belief in the value of skills training and his fierce determination that the Federal Government not abandon the disadvantaged in our society were chiefly responsible for raising this program out of the ashes of the discredited CETA Program. Few remember it today because Vice President QUAYLE and Secretary Dole have worked so hard to give job training a Republican stamp, but President Reagan and his advisers did want to abandon the disadvantaged. The Reagan position on job training was no job training. It took all of Mr. HAWKINS' considerable skill and energy to save this program, which has done so much for so many.

I also want to praise and thank the Secretary of Labor, Elizabeth Dole, who has been an ardent supporter of JTPA since her first weeks in office and who has become the most powerful voice in Government for upgrading the skills of the American work force. In a time of real budgetary crisis, when the pressure is on to cut every program and to eliminate whatever may be eliminated, Mrs. Dole has fought not just to protect job training, but to expand the Government's efforts to encourage and deliver it. She knows that no investment is more important for international competitiveness, for the self-worth of our citizens, and for the prosperity of our families than an investment in the skills and knowledge that will enable our people—all of our people—to do high quality work.

Mrs. Dole deserves special praise for her handling of these amendments. JTPA has been plagued with problems that have festered and grown over the last 7 years. Someone less committed to the goals and beneficiaries of this program might have been tempted to hide these problems or to settle for token solutions. Secretary Dole has not been tempted.

Instead, she and her Assistant Secretary, Bob Jones, have worked with the committee to come up with real solutions that will ensure that every dollar Congress appropriates for JTPA is well-spent. It goes without saying that the well-organized people who benefited from the abuses in this program have kicked and screamed, but Mrs. Dole has not wavered.

H.R. 2039 will target these scarce funds more efficiently, limit their use to the most productive services, eliminate the most egregious administrative abuses, and focus the efforts of the entire system not just on getting people into jobs but on helping them

acquire valuable skills that will enable them to find and keep rewarding jobs for years to come.

I trust that with the enactment of these reforms we will have heard the last about job training funds spent on trips to Japan and Sweden, on 6-month wage subsidies for dishwashers and parking lot attendants, or on startup costs for foreign factories.

But if we have not, I give my personal commitment to the House that with the help of the Department, its inspector general, and the GAO, I will do my utmost to make JTPA the extraordinarily productive investment in our future competitiveness and economic well-being it has the potential to be.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Madam Chairman, I would certainly like to begin my remarks by congratulating the chairman of our committee for his leadership and foresight in bringing this to the floor, and of course we all recognize that this is one of his final acts as the chairman and we are going to miss him desperately in the next Congress.

I am also happy to stand here today as one of those who worked with our ranking Republican member, the gentleman from Pennsylvania [Mr. GOODLING] back in 1982 to develop the original bill, which I think everyone has recognized today has been a successful bill with a successful record.

I am encouraged to see that the majority of the JTPA funds will be expended through training programs administered by businesses employing trainees that are referred by JTPA. This is part of the act which I refer to as on-the-job training and for which I fought so hard back in 1982 that it be included in the originally passed bill.

On-the-job-training programs encourage employers to take a chance in hiring the economically disadvantaged, and open doors that otherwise would be closed. The success of this on-the-job-training program is evident in the fact that 83 percent of participants are placed in employment after their training period ends.

Experience like this and success like this has shown that on-the-job-training programs can and should continue to be the most valuable aspect of JTPA. With increased oversight and assurances that training assistance and employer participation does not become merely a form of welfare wage subsidy payments, on-the-job and apprenticeship training can be one of the best ways to get the economically disadvantaged back in the job market as productive and taxpaying citizens.

Because many businesses in the country are experiencing labor shortages, especially in some of the categories of jobs demanding higher skills, it is more important than ever that these amendments begin to shift the focus of JTPA toward training and educating in some of the most intensive remedial education and job skills training.

One example of how these amendments will emphasize education and job skills is the establishment of the Youth Opportunities Unlimited Program, otherwise known as the YOU Program. Secretary Dole should be commended at this point in the discussion, Madam Chairman, because she was the prime advocate for this program and it promises to deliver comprehensive services to youth in high provery communities, not only by providing job training, but by requiring basic education for those without a high school diploma. The YOU initiative will build upon demonstration programs, which successfully have turned around the lives of youth most at risk of failure and of becoming a welfare dependent.

These matching grants provided by this YOU initiative will act as seed money to local communities to increase access to training for those most in need of services. Mrs. Dole again should be congratulated for her leadership and her acknowledgment of the economic and social well-being of this Nation is dependent upon developing every youth to their fullest potential.

Mr. MARTINEZ. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Madam Chairman, I would like first of all to compliment the gentleman from California [Mr. HAWKINS] and the gentleman from California [Mr. MARTINEZ] for bringing this most important piece of legislation to the floor.

As chairman of the Committee on Aging, I am particularly interested in the set-aside for the training of economically disabled senior citizens. I believe that this provision is critical, that it is important, and it is important not only to the senior citizens, but to the Nation. Senior citizens, as well all know, are living longer. They are healthier and have a tremendous contribution to make to the economy of this Nation. This piece of legislation makes that possible.

As we review the characteristics of the current older workers set-aside program, it reveals that assistance is being provided to truly disadvantaged older workers who are very much in need of job training. For example, almost 60 percent of the participants are long-term unemployed and almost 40 percent have less than a high school education.

I would like to conclude, Madam Chairman, by saying that older Americans are an essential resource to this Nation. It is imperative, therefore, that this Nation clearly examine the needs of senior citizens, particularly when it comes to employment. There are many who feel that once you hit the age of 40 that you are no longer in a position to provide the needs of the employer. That is not so.

We had here in the House of Representatives a man who was 88 years of age, Claude Pepper. Claude was as young as any Member of this House at 88 years of age, and there are other Claude Peppers throughout this Nation.

I believe that an opportunity must be given to senior citizens to at least get the training that is needed and then do the job that is necessary to build up this Nation's economy.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Madam Chairman, I rise in strong support of H.R. 2039.

When the JTPA Act was first adopted in 1982, the situation in the United States was very different. We were in the midst of a very, very serious recession with high unemployment, great numbers of displaced workers. The focus of the act was not only to develop partnerships between the private sector and government, but it was also to get the greatest good to the greatest number.

Now, that led to the temptation to skim, that is to say obviously you placed back in employment or into employment as many people as you possibly could with the available dollars, which tempted many program administrators, and from what we have charged them to do, to take the easy ones.

□ 1200

The situation in America is very different today. The economy, although it has soft spots, is relatively strong and healthy. But also we know that the demographics of the work force are changing dramatically.

What this bill does is not to destroy or interfere with the delivery system and the public/private partnership which was worked so ably, but rather to change and target more carefully those to whom the services will be directed. That is a substantial improvement and one which has enjoyed very strong bipartisan support.

However, I wish to address one particular aspect of the bill: The changes made in the bill relative to protections available for older workers under JTPA.

Under the original bill, in 1982 there was a 3-percent set-aside for funds to go to serving the needs of older workers, to direct grants to local service providers.

The problem was that not all States used these funds well or sufficiently. As a matter of fact, in many States the funds were undrawn.

I have to point out, however, that in my own State of Michigan, there the

funds were used very, very well and very effectively.

What this bill does is it takes away the 3 percent set-aside and instead it provides a guarantee that 6 percent of the funds will be designated for serving the needs of older American workers. However, some degree of ambiguity yet exists as to whether or not those unique service providers which are particularly appropriate to the needs of a very unique and specific population will in fact have their continued existence.

The bill does provide that the SBA should give priority to those organizations and entities that have a record of demonstrated effectiveness in providing training and employment services to such older individuals. But it is my hope as we go through conference with the Senate, if indeed we do, that we will be able to strengthen protections in this area so that existing mechanisms of delivering services to seniors will be protected every bit as they have been for the balance of the program.

Mr. MARTINEZ. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Madam Chairman, I thank the chairman for allowing me this opportunity to address an issue important to all people. I would like to thank my colleagues on both sides of the asile for the strong support we have been given in the committee on behalf of this very important bill. We have estimated that the cost of failing to educate and train young men and women for employment in our country costs Americans $225 billion a year. These costs are reflected in lost production, welfare payments, and expenses related to the criminal justice system. This bill will authorize a new year-round youth training program, assure that States and service delivery areas make efforts to increase service and positive outcomes for those hard-to-serve individuals, allows training programs for single parents with dependent children, makes more young adults eligible for the Job Corps Program, increases the age limit from 22 to 25, starts Civilian Conservation centers, improves the management of JTPA programs and allows for the efficient service of residents by allowing country and city service delivery areas to help one another.

It is time to close the skills gap and open the gates of opportunity to all Americans. Without new initiatives and sweeping changes, there can be no soloutions. In the words of Hillel, "If I don't do it, who will? If I don't do it now, when will I? If I do it only for myself, who am I?"

The future of the United States depends on our united ability to discover and develop our human capital in an emerging exploding global economy. The time is now to make JTPA's programs and services work better. The time is now for the passage of H.R. 2039, the Jobs Partnership Training Act of 1990.

Mr. GOODLING. Madam Chairman, I yield 4 minutes to a very distinguished member of our committee who has been very helpful and very effective, the gentleman from Vermont [Mr. SMITH].

Mr. SMITH of Vermont. I thank the gentleman for yielding.

Madam Chairman, I would like to thank the ranking member, Mr. GOODLING, and I too would like to add my thanks and best wishes to Chairman HAWKINS. Much of his attitude about legislating and about people is reflected in the core of the JTPA legislation as it is in the amendments and the changes that we have made this year in the Committee on Education and Labor.

When you get right down to it, as so many other Members have said this morning, the job is different today than it was in 1982, when this first became law in the United States of America.

We are now getting to the hard work. The hard work is the chronically unemployed, the hard work is people who have for whatever reason have been forced out or opted out of productive work, who have been given no chance to ever participate in productive life.

The flexibility of JTPA and the reason that this works so well, its keystone is flexibility. Flexibility in this bill understands that we have to learn continually, with appropriate strings and oversight to be sure, but how we can allow Federal resources to be wrapped around the needs of individuals in communities, because jobs and people and economic progress and educational progress will only be made when it is made in the neighborhoods and on the streets of this country.

The main thrust of this bill is to give people training for jobs, that is the purpose and we know that it succeeds. But I say it also succeeds as an innovation. In my own State of Vermont, for instance, we had Secretary Dole in Vermont to see this program, and JTPA along with other funds trains women for jobs in construction all the way across the spectrum and does it successfully.

So the fact of the matter is that the JTPA in my State, and I suspect in many other States where it is administered appropriately and sensitively, is a force for change in two ways. First, it changes people's lives because it gives people the skills to do jobs that they have not been able to do before because they have not been in the workplace.

Second, it breaks down barriers, whether they be barriers of age, barriers having to do with gender, whatever they may be; and it has been that way in Vermont.

Specifically I am pleased that this bill continues to recognize and really to upgrade the protection given small States—and mine is a small State—for administration. By tying the administrative money in this bill to the functions that are going to be performed as opposed to simply making it a percentage of the funds received.

For those States which receive large amounts of money the percentage is no problem. But with the important and numerous new functions, demands which have been placed on the States, the participant assessment, program design related to that participation absolutely ought to happen. That would have put a very difficult burden on many of the smaller jurisdictions in this country. But thanks to the committee's work and a willingness to listen and to be flexible, the needs of the small States to continue to do the job, the job that they have been doing as well as the job that other States have been doing in JTPA, have been protected, and I thank you for that and I support the bill.

Mr. MARTINEZ. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Chairman, I rise in support of the bill.

In the closing days of Chairman HAWKINS' career, and he is not on the floor but I think we all owe the gentleman from California a real pat on the back.

I would like to say this, this particular program has been effective in my district and has helped many other districts.

People do not want handouts; people want a job. Let me say this to Chairman MARTINEZ, Chairman HAWKINS, Vice-Chairman GOODLING, Mr. GUNDERSON have home, and maybe they do not realize what they have done: By helping people to get a job, they may not have ended up in prison, because a young person has no opportunity to gain some self-respect or an opportunity to become a part of our participatory society; they end up taking the only jobs available to them, and that is a job on the street.

So I want to comend this committee. I am for this particular bill.

The Warren-Trumbull County employment services agency in Trumbull County in my district, the Youngstown Employment Training Program Corp. in my district, they have done a good job. I commend every administrator and every worker out there, on this particular program.

I am glad to see that we have leadership like that of the gentleman from California, Mr. MARTINEZ, which ensures and guarantees that these programs will continue to be funded and expanded this year which will encour-

age even more participation of the seniors.

This is an excellent bill. I am proud to support it, and I would hope that the Congress recognizes the tremendous contribution of Chairman HAWKINS in his closing days.

Mr. GOODLING. Madam Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

□ 1210

Mr. BARTLETT. Madam Chairman, I rise in support of this legislation, H.R. 2039. In my view the legislation in its present form does make some improvements to streamline the Job Training Partnership Act from current law. I would also note that the bill is far from perfect in its present form.

There is no underlying requirement that we pass a Job Training Partnership Act bill this year since JTPA is permanently authorized and, therefore, does not expire, and so I will note that there are also some problems in this legislation, some problems that create additional barriers to the use of JTPA money by those who are most in need of job training, and it seems to me that, when we get to the coference committee, those problems with the legislation and those barriers must be removed if, indeed, we are going to have legislation this year.

One of the most significant barriers, it seems to me, is the near prohibition against fixed-price contracts, which needs to be completely redone in the conference.

I rise to take note of one failed opportunity that this bill has, and it will be corrected in an amendment which I plan to offer along with the gentleman from Texas [Mr. WASHINGTON] of Houston. We plan to offer an amendment that would expand the window of eligibility to 25 percent of high school students who are dropouts if those students have an additional barrier in addition to being a dropout. There is currently a 10-percent window of high school dropouts who do not have to prove income eligibility. Successful high school dropout recovery programs all over the country tells us that because the window is only 10 percent, they are basically unable to use that for those number of students who are eligible otherwise for JTPA, but who are unable to prove their income eligibility because of a lack of communication with their parents. Let me tell the House floor what we are doing precisely with this amendment.

Madam Chairman, the amendment is watered down somewhat from the way it was offered in committee. The amendment would say as follows: If a young person under the age of 22 is a high school dropout and wishes job training, including academics and GED type of training, and wishes JTPA money for high school dropout recovery programs to participate in that program, and if that student has at least one additional barrier to employment, barriers such as the lack of English proficiency or basic skills deficiency, illiteracy, a history of substance abuse, homelessness, disability, pregnancy, or parenthood, if that student is both a high school droput and has one additional barrier to employment such as pregnancy or disability, then that student can qualify for JTPA funding up to 25 percent of the total money.

We know in this country that those high school recovery programs that worked to help high school dropouts are those who identify high school dropouts as unemployed and going to be chronically unemployed for a long time to come because they are high school dropouts, and yet we also note with a great deal of dismay in Congress that JTPA funding is largely unavailable to successful high school dropout recovery programs, and the reason is those programs require that student, that young person, to go through an additional step and to prove his or her parents' income. A high school dropout by definition is not getting along very well with his or her family. The family is not in every case, but is oftentimes, dysfunctional and is oftentimes not speaking between the parents and students, and so to require in every single case that the student verify their mother's and father's income is in many cases a test too far, a bridge too far, and is a barrier that leaves the most needy of the high school dropouts ineligible for JTPA funding. This barrier has been identified by, among others, the Texas Association of Private Industries council who passed a resolution, by the National Commission on Employment Policy in their report entitled "Training Hispanics" and in their recommendation to the States that they seek ways to reduce documentation and requirements.

So, Madam Chairman, this amendment would permit, for 25 percent of the funding of youth funding only, up to 25 percent of the money to be made eligible to high school dropouts who are otherwise eligible for JTPA who are both dropouts and have another significant barrier in their lives; pregnancy, substance abuse, illiteracy, to allow 5 percent of those students to be eligible for JTPA even though they may not be able to verify their parents' income.

It is an amendment that will help recover these high school dropouts, and I commend it to my colleagues' attention.

Mr. MARTINEZ. Madam Chairman, it appears I have no more speakers, however, before I yield back the balance of my time, there is just the one problem that I have with the amendment that the gentleman from Texas will be offering. It is the fact of income eligibility.

As my colleagues know, this individual who might be a dropout could come from a very wealthy family, someone who hardly lacks through his family the resources to address his problems. As my colleagues know, I can understand what the gentleman is trying to do to expand to those people who are dropouts, students who have language problems, but who might necessarily not be of wealthy parents. However, let us take the middle income where today anymore middle-income parents are having a hard time making ends meet anyway, and many of those middle income are just barely above the poverty level, and, if they have a number of people in the family, they are going to be the kind of people that the gentleman from Texas would like to reach.

However, Madam Chairman, what I am concerned about, with no confirmation of income eligiblity, that there are people that might get into this program where a very limited amount of money exists and take it away from those who actually need it.

Mr. BARTLETT. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. BARTLETT. Madam Chairman, I would comment to the gentleman from California [Mr. MARTINEZ] that conceptually, theoretically, that is possible. It is not likely, and it has never happened.

I would just inquire of the gentleman as to how he would, without this amendment, how he would respond to that 16-year-old high school dropout who is pregnant and a former substance abuser who wants to get her GED and whose father will not fill out the forms. How would he provide some kind of recovery program for that student using JTPA?

Mr. MARTINEZ. Madam Chairman, I would think that we would possibly arrange the bill so that in that particular kind of an instance there need to be some verifications. The problem is the way in which the bill is written where there is no verification of income eligibility, and, if there were some way to definitely prove the situation as described, I think that person should be entitled. But I feel there needs to be some way for that to be verified.

Mr. BARTLETT. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. BARTLETT. Madam Chairman, under the bill that is before us, without this amendment that student would be denied. No eligibility at all without any exceptions. I have redrafted it from the committee, and I commend it to the attention of the

gentleman from Texas [Mr. MARTINEZ]. The way I have drafted it now may meet the gentleman's objection because we require one additional barrier, pregnant, substance abuser, and it is only a 25-percent window. So, these dropout recovery programs will, in fact, look toward income eligibility every chance they get.

Madam Chairman, these are kids that need help, and we ought to be setting out to help them.

Mr. MARTINEZ. Madam Chairman, here again my concern is the way it is written. There is still the potential, as the gentleman from Texas [Mr. BARTLETT] admits, for someone who does not really truly need it to be eligible for it under the language as it is written now, and that really takes away from those that absolutely need it, and the program intentionally was designed to target the most needy.

□ 1220

Mr. WASHINGTON. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman for yielding.

Following on what my colleague, the gentleman from Texas, said, I think our concern is the same as that of the chairman of the subcommittee. None of us wants the funds abused. We want them to get to the people that need them.

Our concern, however, is with a person whose family income may be $5 over the limit or who may be disabled in some way and is kept out of the program altogether. It seems to me we ought to find ways to include people rather than find ways to exclude people, and I would hope that during the debate on the amendment, when it is offered, we can arrive at some accommodation by which we can get what the chairman wants to do and reach the accord my colleague, the gentleman from Texas, and I want. We want to close the loopholes so that the fraudulent applicant is turned down or is even dissuaded from applying. At the same time we recognize that a hardship may occur, and we think we have met that with the additional barrier that is put in.

I know the gentleman is going to look at this, and maybe we can persuade him to be favorably disposed toward some accommodation between where we are now and then. But I believe the bill without that amendment will fall short of its mark in terms of reaching the people who need it.

Mr. MARTINEZ. Madam Chairman, let me assure both gentlemen from Texas that I have an open mind on this. There is a consideration by the chairman also, and he had wanted to address this matter. He will address it between now and the time the amendment is offered. Between now and then, maybe there is some compromise that we can work out.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman from California.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Madam Chairman, I rise in favor of this legislation, and I take the well briefly just to thank all those who have worked so very, very hard on the bill. I thank the subcommittee chairman for guiding it through the subcommittee, as well as the gentleman from Wisconsin [Mr. GUNDERSON], the gentleman from Pennsylvania [Mr. GOODLING], and the committee chairman, the gentleman from California [Mr. HAWKINS], all of whom have brought a great deal of sensitivity and urgency to this matter. They recognize quite franky how this affects all of us in this Nation and why it is so very crucial that we move forward on it. that type and that level of leadership, I think, is to be commended, and certainly it makes this a much better body.

Madam Chairman, I am privileged to stand here in support of the legislation.

Mr. GOODLING. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I merely want to indicate that I believe the gentleman from Texas [Mr. BARTLETT] and the gentleman from Texas [Mr. WASHINGTON] have now drawn their amendment tightly enough that I will not have an objection to it. I want everything to be targeted as much as possible.

However, yesterday I was visited by representatives of the Hispanic community, and they have a concern with this. Without the amendment, their concern is that if we do not have that one other barrier, which in their case in most instances will be limited English proficiency, and then the dropout rate being the other, without this opening of the window, their fear is that they will not be able to participate as they feel they should be able to. So I will be supporting that amendment.

Mr. WILLIAMS. Madam Chairman, I would like to congratulate Chairmen HAWKINS and MARTINEZ for developing this legislation before us today.

This legislation incorporates my Jop Corps amendments, H.R. 2665, of last year which more than 100 of my colleagues cosponsored. These amendments: First, clarify the authority to permit concurrent or subsequent participation in Job Corps and JTPA for the benefit of the individual; second, increase the limitation on nonresidential participation in Job Corps from 10 percent to 20 percent nationally; third, provide alcohol and drug abuse counseling; fourth, increase the age limit to 25; and, fifth, protect the Civilian Conservation Corps Job Corps centers on public lands.

It includes my language to establish a national and several regional training institutes to improve the quality of service delivery at the local level. It also reforms the administration of Indian programs under this act.

In addition, it includes the legislation I authored with Chairman HAWKINS, H.R. 3517, the disaster relief employment act. This legislation is designed to create permanent authority to continue to allow the Secretary to respond to disasters as she has under section 323(b(and 324 of current law.

It also contains my bill (H.R. 4120) to extend the Job Corps to homeless families. This amendment is designed to provide services and facilities to eligible homeless individuals and their families who have not attained the age of 25 at the time of enrollment.

These services and facilities shall be provided under a project agreement with one or more State of local agencies that: First, requires such State and local agencies to provide not less than 50 percent of the costs; second, contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education and social services provided by existing Federal State and local programs; and, third, requires State and local agencies to provide transitional assistance, including housing, necessary to effect successful job placements for enrollees.

This legislation contains my compromise formula for allocating youth funds. The original bill heavily weighted data on economically disadvantaged youth, a far more unreliable data base that is far less often updated than unemployment. When this committee has reported youth employment and training legislation in the past, it has chosen to emphasize unemployment. In 1980, when this committee reported H.R. 6711, sponsored by Chairman PERKINS, and Representatives GOODLING, FORD, KILDEE, BUCHANAN, SIMON, and JEFFORDS, we allocated 75 percent of the funds based on unemployment. In 1984, when this committee reported H.R. 5017, two-thirds of the funds, as in current law, were allocated based on unemployment. I mention this to note the prior precedent of this Committee. The reported bill in the Senate, which has been stalled since last year because of the formula, allocated 75 percent of the funds on economically disadvantaged youth while the original House bill allocates two-thirds of the funds using that criterion.

Ms. SNOWE. Madam Chairman, I rise to express my support for H.R. 2039, legislation making improvements in the Job Training Partnership Act [JTPA] of 1982. I commend my colleagues on the Education and Labor Committee for making changes in this program which will better prepare its participants for the future.

As America stands on the brink of the 21st century, there is a great deal of work to be done to ensure our continued growth and prosperity. Advances in technology, increasing competitiveness on the international market, and the shrinking work force caused by the aging of the baby boom are only a few of the challenges we must be prepared to meet.

JTPA, by providing education and training to our disadvantaged youth, plays an increasingly key role in ensuring America is ready for tomorrow.

The basic skills learned through the Job Corps or the summer youth program will allow these young people to prepare themselves for the challenges ahead of them. The local input of the members of the Private Industry Council while also ensure that the skills learned will meet the needs of the local economy.

I am particularly pleased that the committee has included provisions to help single parents. By increasing the limitations from 10 to 20 percent for nonresidential participants in the Job Corps, and by requiring the Department of Labor, to provide child care at Job Corps centers where feasible, the committee is reaching out to a large population of young, single parents who have been unable to take advantage of the program because they did not have access to child care.

The ability to compete in our work force increasingly depends on one's education. Those young people who have not finished high school are eager to compete, but need the help of JTPA's programs in order to do so. A helping hand today through JTPA provides a skilled worker for tomorrow's work force.

Mr. SERRANO. Madam Chairman, I rise in strong support of the Job Training Partnership Act Amendments, H.R. 2039.

This legislation is badly needed as part of the rescue mission of our youth from the destructive forces lurking in society. The JTPA provide our economically disadvantaged and dislocated teenagers, who are not prepared for today's sophisticated job market, a chance to compete for better skills and way to improve their standard of living.

During the last several years, there has been an enormous effort to reform our current system of public assistance, to lessen the dependence of public assistance and motivate public assistance recipients to becoming gainfully employed. But what good does it do to encourage people to become employed if their occupation does not provide some satisfaction and gratification. What good does it do to encourage people to become gainfully employed if they will earn more by remaining on public assistance than by having a job?

Madam Chairman how can we encourage people to take advantage of this initiative if they are not properly prepared to enter the job market. The legislation before us today is one of several job training programs that ensures that citizens of this country are given the opportunity to learn marketable skills.

JTPA is the primary source of funding for New York City's employment and training programs. Despite job growth and a decline in unemployment in New York City and many areas of the country, there are still large numbers of adults and youth who lack basic and occupational skills. The city Department of Employment made fundamental changes in its JTPA programs. These included targeting services to the city's least job-ready populations, including individuals deficient in basic skills, public assistance recipients, high school dropouts, teenage parents, and others facing multiple barriers to employment.

The New York City Department of Employment also mandated that its occupational training programs be integrated with basic skills instruction, as well as counseling and other support services. The city's challenge, and ours, is to ensure that adults and youth are well prepared for jobs that offer career development and financial stability.

I wholeheartedly support H.R. 2039 and I urge my colleagues to support its final passage.

Mr. CONTE. Mr. Chairman, I rise today in support of H.R. 2039. As a longtime supporter of the JTPA programs I am pleased with the bill the committee has brought to the floor because it improves an already solid piece of legislation. Let me highlight a few of the changes.

JTPA will be able to better target services because the basic grant program is divided into separate youth and adult parts, with the expanded adult services going to adults who have not graduated from high school, lack basic skills, receive AFDC, or are unemployed for longer than 6 months.

The bill also provides for assessment of participant's skills, continuing counseling and supportive services after participants exit the program, and estabishing linkages across education agencies.

For youth services the percentage of out-of-school youth will be at least 50 percent and could include youth who are pregnant parenting, who lack basic skills, or have limited English language proficiency. Targeting has long been a JTPA weakness. Under this bill that weakness has been vaporized.

The summer youth program has a $900 million authorization and a new formula giving 60 percent of the money to the unemployed, 20 percent to the economically disadvantaged, and 20 percent to AFDC recipients. While that is good news to nearly everyone, the 15 percent limitation on administrative costs may need more scrutiny. Hopefully that will happen in the Senate and Conference.

For Job Corps there are several terrific changes, such as raising the percentage of non-residential slots from 10 to 20 percent giving priority to single parents with children, and requirements to help participants overcome their drug problems.

Madam Chairman, the list goes on, but the facts are simple—this is a good bill which I urge everyone to support.

Mr. GAYDOS. Madam Chairman, I rise in strong support of H.R. 2039, the Job Training Partnership Act Amendments.

These amendments to the JTPA Program are vital if we are going to streamline the program and ensure that dollars spent go more toward training workers than to administrative operations of training agencies.

Under the present structure of the program, JTPA funds are distributed to each State according to a specific formula and are then further distributed to service delivery areas within each State by the Governor.

There is a problem with JTPA, however. Unfortunately, instead of using dollars to train unskilled workers who need the most help or those displaced workers who will be harder to retrain and place in jobs, too many of those workers in the program are those most likely to get the jobs, even without this assistance.

Furthermore, companies are hiring and training unskilled workers with JTPA funds, even though the companies themselves admit they would have hired and trained these workers anyway, and at the companies' own expense.

These amendments attempt to target JTPA dollars to those unskilled and displaced workers who are most in need—returning the emphasis to the original intent of the program.

Additionally, this package of amendments to JTPA focuses more attention on helping youth, both those who are no longer in school and those who are seeking summer programs.

Madam Chairman, as many in this Chamber know, I have been and still am a strong supporter of the career training schools in this country. But those schools cannot serve everyone, as much as they try.

The attempt in this legislation to recommit the program to helping our youth achieve skills for work as well as for leadership is a necessary element.

JTPA came into existence about the same time as the steel industry in my congressional district entered its decline, a decline which strangled employment in Allegheny County.

JTPA was, and continues to be, a shot in the arm for the area, leading to the placement of more than 30,000 displaced workers in new jobs in Allegheny County since 1983.

But the program has done more than just place people in jobs, in some cases it has served to restore their dignity and confidence in themselves.

Let me tell you about a McKeesport man, one of those 30,000 faceless steel workers who suffered when the steel industry, battered by increasing foreign imports, shut doors to the mills and permanently laid off its workers.

This man worked for Bucyrus-Erie Steel in Glassport. When the mill closed, he lost his job—and much, much more. Ultimately, he lost his home—his family—and, as I mentioned, his dignity.

JTPA gave this man the opportunity to build a new life—and he took it.

This man was one of several recent graduates of the program and spoke at a special ceremony honoring JTPA in the Pittsburgh area. Today, he said, he's back on track, working through a county program and rebuilding his life—and regaining his dignity.

I know there are some who oppose this bill because it sets real limits on how much of the funds can be used for administrative purposes. I realize that there are times when unexpected costs arise, but I am convinced that the dollars assigned to this program should be used to help people like my constituent.

That is what it is all about—helping our young people to have a future, helping displaced workers develop new job skills so that they can again support their families and regain their self-confidence.

I support H.R 2039, and I urge all of my colleagues to vote for its passage today.

Mr. RAHALL. Madam Chairman, I rise in strong support of H.R. 2039, a bill amending the Job Training Partnership Act.

Madam Chairman, all JTPA programs serve West Virginia, and are most beneficial to my southern congressional district due to our con-

tinuing struggle to make a full economic recovery.

Throughout its existence, our State economy has been profoundly affected by its geography. The rugged terrain and the bountiful deposits of coal, oil, salt, limestone, and clay shaped the nature of the State's economic development early on, and has remained so until today. Yet economies based on the extraction of minerals are generally slower to evolve into mature economies than are more broadly based ones. Much of West Virginia's growth retardation stems from the damage caused by the widely gyrating boom and bust cycles common to our basic commodity market—mostly that of the coal industry.

By having never quite achieved an even leval of growth, our State's infrastructure, labor market, and distribution systems seldom match the needs of the resident populations.

While West Virginia has not made a full economic recovery from the recessions and economic downturns of the decade of the 1980's, West Virginia is winning its struggle to acheive stability. Nonetheless, our State still has high incidences of unemployment due to plant closings and the closure of coal mining operations, and these facts bring to the forefront West Virginia's continuing need for job training and retraining programs, for older workers who worked long and hard in jobs suddenly lost, and for our young people who either need to enter the work force right out of high school, or who have dropped out of school and are in need of basic skills training.

I am pleased to have this bill before us today, and I commend our distinguished chairman of the Education and Labor Committee, and its ranking member, for giving us this opportunity to adopt H.R. 2039 for the good of the Nation's job training needs. The JTPA Program has as its concept a partnership between elected officials and the local employer community who plan, administer, and evaluate local programs to benefit local individuals.

JTPA is designed to increase the relevance of skills taught and the quality of skill levels achieved, in order to improve the placement and retention of trainees in unsubsidized jobs.

H.R. 2039 now before us for our consideration, provides the following new and revised JTPA programs for the States and localities:

Title II-A, a program for adult and older workers, establishes a separate program for adults over the age of 22, and older workers, age 55 and older, and requires that not less than 50 percent of participants in a service delivery area must fall in one or more of the following categories: First, basic skills deficient; second, school dropouts; third, Aid to Families with Dependent Children recipients; and fourth, unemployed for the previous 6 months or longer. More important, the bill retains the allocation formula in current law, with two-thirds based on unemployment, and one-third based on economically disadvantaged.

Service delivery areas [SDA's] are required to set aside 6 percent of title II-A funds to operate job training programs for older individuals. The bill makes organizations representing older workers eligible for membership on State job training coordinating councils and private industry councils. Further, the bill extends community based organization status to older worker organizations.

There are currently 452,359 persons over the age of 55 in West Virginia, with 98,434 between the age of 55 and 59, and 96,734 between the age of 60 and 64. Even the remaining 257,191 persons over the age of 65 who are interested in jobs, could benefit from the bill we are passing today, if they are otherwise qualified.

The summer youth title is retained, and is authorized at $900 million in fiscal year 1991 and such sums thereafter. In the future, SDA's will be required to provide assessments to participants in the summer youth program.

A new program, under title II-C, known as the Year-Round Youth Program, is authorized to be funded at $1 billion, and will serve youths aged 14 to 21. Under this new program, 50 percent of all participants must be out-of-school youth, with jobs allocated on a priority basis for school dropouts. All remaining funds must be spent on in-school, but at-risk youth.

The youth allocation formula has been revised so that funds under the title II-B and II-C programs will be distributed as follows:

Sixty percent allocated on the basis of relative number of unemployed, 20 percent allocated on the basis of relative numbers of economically disadvantaged youth, and 20 percent on the basis of the relative number of recipients of AFDC.

In West Virginia today, there are 147,169 youths between the ages of 15 and 19, and 136,920 between the ages of 20 and 24 years of age. These youths will also have a chance to benefit from this JTPA bill.

State setasides are required under titles II-A and II-C. Eight percent must be used for education coordination, 3 percent for incentive grants for serving the targeted least job ready, and 5 percent for State administration. The bill establishes an annual $450,000 floor to ensure adequate funding of administration for small States.

Of immense interest to me, Madam Chairman, is the proviso in the bill encouraging SDA's and service providers to also provide child care to JTPA participants. In fact, in the selection of service providers under JTPA, special consideration will be given to those who do offer appropriate support services, including child care. As evidenced by our ongoing efforts to enact child care legislation so that all people, but particularly those trying hard to get training and find jobs in order to move off welfare rolls, need affordable, safe places to leave their children while away from home during the day. This will go far to provide that critical support service until Congress enacts the child care bill now pending in conference.

Under the bill, at least 80 percent of an SDA's allocation is to be expended on training, training related services, and participant support services, with a limitation of not more than 20 percent for administrative costs.

The bill further prohibits single unit charging, except for tuition costs or off-the-shelf commercial training packages.

Madam Chairman, H.R. 2039 also expands the age limit for eligible participants up to age 25, and increases the nonresidential limit in current law from 10 to 20 percent, under the Job Corps provisions. Further, the bill provides priority for single parents with dependent children for nonresidential training opportunities, and requires Job Corps centers to provide drug and alcohol abuse counseling. Child care, if feasible, is also to be offered to Job Corps participants, and clarifies that Job Corps participants may transfer to and from JTPA title II programs. The bill also prohibits nongovernmental entities from operating civilian conservation centers of the Job Corps on public lands.

Job Corps centers can also provide services to the homeless when State and/or local agencies agree to pay at least half of the costs and to provide transitional assistance to participants.

H.R. 2039 authorizes $50 million in fiscal year 1991 for a comprehensive intervention program for youth residing in high-poverty areas in urban and rural areas. This provision will be especially beneficial to West Virginia and to my district, because of its 63-percent rural population.

Finally, Madam Chairman, the bill provides grants to the States to develop demonstration and exemplary programs to train and place women in nontraditional jobs.

Madam Chairman, I strongly recommend H.R. 2039 to my colleagues for their support and passage.

Mr. HUGHES. Madam Chairman, I rise in strong support of this bill which I believe will help the Job Training Partnership Act better respond to a changing economy, and I wish to particularly emphasize the importance and success of the program's older worker set-aside.

Testimony before my Subcommittee on Retirement Income and Employment reveals that workers age 55 and over stay unemployed longer than any other age group. What is worse, these older workers are considerably more likely than younger workers to end a period of unemployment by leaving the labor force altogether rather than finding a job.

Many lack the skills or access to training programs in the private sector which might make them more marketable. This situation is both tragic and costly. For persons over the age of 50 or 60, unemployment means the loss of health benefits and savings at a time when these individuals have a higher incidence of health problems. We can and must help these individuals learn the skills which are necessary to return them to the labor force.

We have such a program right now, the older worker program under the Job Training Partnership Act. In my home State of New Jersey this program is working wonderfully. In one innovative program, for example, JTPA funding is used to train older workers to be day care providers. The intergenerational assistance I have seen provided in this program is truly outstanding.

I simply don't buy the argument that there aren't enough older workers who would benefit from the assistance provided by the JTPA to justify a special set-aside. Many are in need of the assistance. The problem is that efforts to include older workers in JTPA programs, particularly in the earlier stages of the program, often didn't take into account the fact that methods to locate and train younger

workers are not necessarily going to work for older workers.

As we have begun to target these programs more to the needs and characteristics of workers 55 and over in New Jersey and many other States, the results have been very positive. Pulling back from the older worker set-aside program would be like admitting defeat. We know there are workers who need assistance, but because we don't have all the answers, some would have us just give up.

But that would be costly and just plain wrong. I urge my colleagues who believe in the value of older workers to support this important bill.

Mrs. LOWEY of New York. Madam Chairman, I rise in strong support of the Job Training Partnership Act amendments.

The economic warning signs are clearly increasing in recent months. As growth slows and the likelihood of a recession increases, it has become increasingly important for our Nation to devise and implement a comprehensive policy designed to revitalize our economy and enhance our competitiveness in the world marketplace.

The bill before us today, the Job Training Partnership Act amendments, is one important part of such a strategy, and it deserves the strong support of the House of Representatives.

Of course, the ongoing Federal budget deficit continues to be a major obstacle to growth, and we must arrive at an equitable agreement to reduce the deficit substantially. This must continue to be a top priority of Congress and the President. We must also take steps designed to improve research and development, expand foreign trade, and encourage savings and investment.

But if we are to fully meet the enormous economic challenges that we currently face, we are also going to have to make major improvements in our Nation's education and training programs. If we hope to remain competitive in the 21st century, we must ensure that our Nation's workforce is properly educated and properly trained.

The Job Training Partnership Act is designed to help us meet the economic challenges that we face. It is aimed at ensuring that economically disadvantaged adults and youth receive the training that they need to become fully productive members of our society. This program brings together private industry, educational agencies, organized labor, community-based organizations, and government in a partnership that has proven to be uniquely successful in meeting the needs of our disadvantaged citizens. And as our economy increasingly demands workers with higher skill levels, the importance of the Job Training Partnership Act is growing.

The bill before us today makes several important changes designed to ensure that those with the greatest need receive the services that they require to succeed in the workplace. It will improve the delivery of services to hard-to-serve youths and adults. It will help our Nation meet the rapidly changing demands of an increasingly complex workplace. And it will help our Nation respond to the economic difficulties in which we now find ourselves.

We must recognize that the economic future of our Nation is at risk. Unless we respond now to the economic challenges we face, and unless we respond in a comprehensive and energetic fashion, we will be left behind in the world marketplace, and the economic future of our Nation will be compromised.

Today, we have the opportunity to enact one portion of such a comprehensive strategy—a bill that will help ensure that our work force is prepared to meet the challenges of the coming century. In the interests of our economic security and the well-being of all American families, which are threatened by the potential economic turmoil that may occur in the absence of comprehensive action, I urge the swift adoption of this very important bill.

Mr. GOODLING. Madam Chairman, I yield back the balance of my time.

Mr. MARTINEZ. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment, in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2039

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Job Training Partnership Act Amendments of 1990".

(b) REFERENCES.—References in this Act to "the Act" are references to the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) Table of Contents.—

Sec. 1. Short title; references; table of contents.
Sec. 2. Authorization of appropriations.
Sec. 3. Definitions.
Sec. 4. Amendments to part A of title I: service delivery system.
Sec. 5. Amendments to part B of title I: additional State responsibilities.
Sec. 6. Amendments to part C of title I: program requirements for service delivery systems.
Sec. 7. Amendments to part D of title I: Federal and fiscal administrative provisions.
Sec. 8. Amendments to title II: improved delivery of services to adults and youth.
Sec. 9. Amendments to part A of title IV: employment and training programs for Native Americans and migrant and seasonal farmworkers.
Sec. 10. Amendments to part B of title IV: Job Corps.
Sec. 11. Amendments to part D of title IV: national activities.
Sec. 12. Amendments to part E of title IV: labor market information.
Sec. 13. Establishment of new part H of title IV: training institutes.
Sec. 14. Establishment of new part I of title IV: Youth Opportunities Unlimited program.
Sec. 15. Establishment of a new part J of title IV: disaster relief.
Sec. 16. Nontraditional employment.
Sec. 17. Uniform reporting requirements.
Sec. 18. Effective date; transition.

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Act is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) TITLE II AUTHORIZATIONS.—

"(1) PART A.—There are authorized to be appropriated to carry out part A of title II $1,100,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.

"(2) PART B.—There are authorized to be appropriated to carry out part B of title II $900,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.

"(3) PART C.—There are authorized to be appropriated to carry out part C of title II $1,000,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after such subsection (b) the following:

"(c) TITLE IV AUTHORIZATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out parts C, D, E, F, G, and H of title IV for fiscal year 1991 and each succeeding fiscal year an amount equal to 7 percent of the amount appropriated for parts A and C of title II for such fiscal year.

"(2) NATIVE AMERICAN AND MIGRANT PROGRAMS.—There are authorized to be appropriated—

"(A) $70,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out section 401;

"(B) $70,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out section 402.

"(3) YOU PROGRAM.—There are authorized to be appropriated $50,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out part I of title IV.

"(4) RESERVATIONS.—The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 5 percent of the amount appropriated under paragraph (1) to carry out part C of title IV;

"(B) $2,000,000 to carry out part F of title IV;

"(C) an amount equal to 0.30 percent of the amounts available for parts A and C of title II, for purposes of carrying out part H of title IV.".

(b) CONFORMING AMENDMENTS.—(1) Section 3(e)(2) of the Act is amended by striking "part A" and inserting "parts A and C".

(2) Section 302(a) of the Act is amended by striking "section 3(c)" and inserting "section 3(b)".

(3) Section 401 of the Act is amended by striking subsection (j).

(4) Section 402 of the Act is amended by striking subsection (f).

The CHAIRMAN. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

Section 4 of the Act is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) The term 'basic skills deficient' means reading or computing skills at or below the 8th grade level on a generally accepted standard test or equivalent score on a criterion referenced test.";

(2) by inserting "the Association of Farmworker Opportunity Programs, the Center for Employment Training, organizations serving older workers," after "Jobs for Youth," in paragraph (5);

(3) in paragraph (8)—

(A) by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting in lieu thereof "income guidelines promulgated each year by the Secretary of Health and Human Services";

(B) by inserting "(or has been determined to be eligible to receive)" after "is receiving" in subparagraph (C); and

(C) by inserting "subsections (a) and (c) of" in subparagraph (D) after "under";

(4) in paragraph (10) by striking "handicapped individual" and inserting in lieu thereof "individual with disabilities";

(5) in paragraph (22) by striking "Trust Territory of the Pacific Islands" and inserting in lieu thereof "Freely Associated States, the Republic of Palau, and the Commonwealth of the Northern Marianas";

(6) in paragraph (24) by inserting "drug and alcohol abuse counseling and referral, individual and family counseling", after "health care,";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.";

(8) by adding at the end thereof the following new paragraphs:

"(30) The term 'enrollment' means that an individual is determined eligible for participation in programs authorized and funded under this Act. The date of enrollment in the program shall be the first date, following intake, on which the participant started receiving subsidized employment, training, or services funded under this Act.

"(31) The term 'participant' means an individual who has been determined to be eligible to participate in the program and who is enrolled in and is receiving services funded and authorized by this Act.

"(32) The term 'termination' means the separation of an individual who was determined eligible for participation in an activity authorized and funded by this Act and who did, in fact, enroll in and receive services authorized and funded by this Act.

"(33) The term 'school dropout' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act.

"(35) The term 'program income' means income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, and from the sale of commodities or items fabricated under a grant agreement (as such terms as defined by the Office of Management and Budget Circulars or the Common Rules, or both).

"(36) The term 'interest income' means interest earned by grantees and subgrantees on grants funds, in their possession (as such terms are defined by the Office of Management and Budget Circulars or the Common Rules, or both).

"(37) The term 'profit' means funds under this Act received in excess of costs incurred.".

AMENDMENT OFFERED BY MR. CONDIT

Mr. CONDIT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONDIT:

Page 6, line 3, strike out "and", and after line 5 insert the following:

(D) by striking "or" at the end of subparagraph (E); and

(E) by inserting before the period at the end of subparagraph (F) the following: "; or (G) is a migrant or seasonal farmworker who either meets the requirements of clause (B) or whose total family income for any consecutive 12-month period within the 24 month period prior to application for the program involved meets the requirements of clause (B)";

Mr. CONDIT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONDIT. Madam Chairman, first of all, I would like to thank and commend the chairman of the committee, the gentleman from California [Mr. HAWKINS] and the staff for the fine work they have done on this bill and for assisting me in drafting this amendment.

Madam Chairman, I am here today to offer this amendment which would revise JTPA eligibility requirements for migrant and seasonal farmworkers. Specifically, this amendment would provide that income calculations for determining "economically disadvantaged" account for the family income for 12 consecutive months within a 24 month period, rather than 6 months, preceeding the person's application.

The 6-month requirement under current law operates to adversely impact seasonal farmworkers, and their children, who are in need of job training services. This impact is most dramatically demonstrated in JTPA youth programs which operate concurrently with the school year.

Specifically, youth in dropout prevention programs generally enroll in September through November, at the tail-end of the farming season. Current law requires consideration of family income for 6 months preceeding the application. This 6-month period generally incorporates the spring and summer months, a period of continuous employment for farmworkers. Unfortunately, this timeframe fails to account for long periods of unemployment during the preceeding winter months. As a result, at least 30 percent of the seasonal workers in my district who would otherwise be eligible for JTPA are deemed ineligible.

This amendment, in requiring consideration of a consecutive 12 months within 24 months prior to the application will provide for a more accurate assessment of the family's economic situation. This needed change is in keeping with the spirit of JTPA by providing job training services to those who are in need.

I urge the Members of this body to support this amendment.

Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment.

Given the seasonal nature of migrant farmworker wage earnings, it is difficult to determine their eligibility for JTPA programs because the preview of their prior income is limited to 6 months. The Condit amendment would provide a more realistic appraisal of income by extending the review period to the prior 12 months. I urge my colleagues to support this amendment.

Mr. GOODLING. Madam Chairman, I move to strike the last word, and I rise in support of the amendment.

Madam Chairman, the gentleman from California [Mr. CONDIT] is making a necessary correction to what is already in the regulations under the current legislation. But above all, probably the most needy in this country as far as this legislation is concerned are the children of migrant workers, so this is a very important addition to the bill, and I commend the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The amendment was agreed to.

Mr. MARTINEZ. Madam Chairman, I ask unanimous consent that the balance of the committee amendment in the nature of a substitute be open to amendment at any point and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the balance of the committee amendment in the nature of a substitute is as follows:

SEC. 4. AMENDMENTS TO PART A OF TITLE I: SERVICE DELIVERY SYSTEM.

(a) PRIVATE INDUSTRY COUNCIL.—Section 102(a)(2) of the Act is amended by inserting

after "rehabilitation agencies," the following: "local welfare agencies, organizations representing older workers,".

(b) ALTERATION OF PERFORMANCE STANDARDS TO PROMOTE DELIVERY OF SERVICES TO THE HARD-TO-SERVE.—Section 106 of the Act is amended to read as follows:

"PERFORMANCE STANDARD

"SEC. 106. (a) FINDINGS.—The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by increased employment and earnings of participants, the reductions in welfare dependency, and increased education attainment and occupational skills.

"(b) PERFORMANCE STANDARDS.—

"(1) SERVICE AND OUTCOME OBJECTIVE.—In prescribing performance standards for parts A and C of title II, the Secretary shall assure that States and service delivery areas will make efforts to increase services to and positive outcomes for hard-to-serve individuals.

"(2) EMPLOYMENT, EARNINGS, AND WELFARE DEPENDENCE.—The basic measure of performance for adult training programs under part A of title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. Such basic measure shall provide additional credit for participation in the program that produces an increase in basic education and occupational skills, when such increase is in combination with an increase in employment and earnings or a decrease in welfare dependency. In order to determine whether these basic measures are achieved, the Secretary, in consultation with the Secretaries of Education and Health and Human Services (as appropriate), shall prescribe standards on the basis of appropriate factors which may include—

"(A) placement in unsubsidized employment,

"(B) retention in unsubsidized employment,

"(C) the increase in earnings, including hourly wages,

"(D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments, and

"(E) the attainment of basic education (such as acquisition of a high school diploma or a general equivalency diploma, significant gains in reading or math, or the attainment of English language proficiency) or workplace competencies necessary for successful retention in the labor market.

"(3) YOUTH PROGRAM STANDARDS.—In prescribing standards for training programs under part C of title II, the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (2), shall be—

"(A) attainment of education and employability competencies, as determined by the private industry council, in consultation with local educational agencies, where appropriate, and subject to standards prescribed by the Secretary (by regulation),

"(B) secondary and postsecondary school completion, or the equivalent thereof, and

"(C) enrollment in other education, training, or employment programs or apprenticeships, or enlistment in the Armed Forces.

"(4) ADDITIONAL PROVISIONS.—The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

"(5) TITLE V STANDARDS.—The Secretary shall prescribe performance standards under this section for programs authorized by title V, relating to the placement of individuals eligible under such title, in accordance with the criteria specified in section 511(c).

"(c) BIENNIAL REPORTS.—The Secretary shall biennially prepare and submit a report to the Congress containing the performance standards established under this section, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(2), including the relative importance of each standard to the accomplishment of such goals. Such report shall contain the recommendations of performance standards technical work groups convened by the Department.

"(d) VARIATIONS IN AND MODIFICATIONS OF PERFORMANCE STANDARDS.—

"(1) VARIATIONS.—The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, offenders, individuals with disabilities, and older workers, taking into account their special circumstances.

"(2) MODIFICATIONS.—(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years, and such modifications shall not be retroactive.

"(B) The Secretary shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications. If appropriate, such report may be made a part of the report submitted under subsection (c).

"(e) STATE PERFORMANCE STANDARDS.—

"(1) GOVERNOR'S AUTHORITY.—Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards under subsections (b) and (g) based upon specific economic, geographic, and demographic factors (such as age and disability) in the State and in substate areas and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

"(2) ADDITIONAL STANDARDS.—Each Governor may prescribe performance standards for programs under titles II and III that are in addition to those standards established by the Secretary under subsections (b) and (g).

"(3) SECRETARY'S RESPONSIBILITY.—The Secretary shall—

"(A) provide improved information and technical assistance on performance standards variations;

"(B) collect data that better specifies hard-to-serve individuals and long-term welfare dependency;

"(C) provide guidance on setting performance standards at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income; and

"(D) review performance standards to ensure that such standards provide maximum flexibility in serving the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.

"(f) ADVICE FROM THE NATIONAL COMMISSION ON EMPLOYMENT POLICY.—The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(g) TITLE III STANDARDS.—

"(1) IN GENERAL.—The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(2) ALLOWANCE FOR COST DIFFERENCES.—Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(h) COMPLIANCE.—

"(1) TECHNICAL ASSISTANCE; PERFORMANCE IMPROVEMENT STRATEGY.—The Governor shall provide technical assistance to service delivery areas within the State that fail to meet performance standards for any given program year. As part of the technical assistance, the Governor, with the service delivery area, shall develop a performance improvement strategy as a modification to its job training plan.

"(2) ASSUMPTION OF ADMINISTRATIVE RESPONSIBILITIES.—If the failure to meet performance standards persists for two consecutive years, the Governor shall assume administrative responsibilities for such service delivery area until alternative arrangements can be implemented to correct the failure, including restructuring the private industry council, prohibiting the use of selected service providers, or selecting an alternative administrative entity.

"(3) INCORPORATION.—If such alternative arrangements do not result in improved performance within 12 months after implementation, the Governor shall, in consultation with the State job training coordinating council, and without recourse, incorporate such service delivery area into another contiguous service delivery area.

"(4) SECRETARY TO ENFORCE.—If the Governor, for any reason, fails to implement the provisions of this subsection, the Secretary, after notification of the Governor, shall take corrective actions required by paragraph (3).

"(i) DEFINITION OF PLACEMENT.—The Secretary of Labor shall establish a universal definition of placement to be used in the development of performance standards. Such definition shall give credit for employment obtained, to the extent practicable, in job areas related to the training and training related services received by the participant.".

(c) CHILD CARE.—Section 107(a) of the Act is amended by adding at the end thereof the following: "In addition, consideration shall be given to provision of appropriate supportive services, including child care.".

(d) IMPROVED DELIVERY OF SUPPORT SERVICES.—Section 108 of the Act is amended to read as follows:

"LIMITATION ON CERTAIN COSTS

"SEC. 108. (a) APPLICABILITY.—The cost limitations contained in this section shall apply separately to (1) the funds expended for programs under part A of title II, and (2) the funds expended for programs under part C of such title.

"(b) GENERAL ADMINISTRATIVE COST LIMITATION.—Not more than 20 percent of the funds expended by a service delivery area for any fiscal year for programs under either part A or C of title II may be expended for the cost of administration. For purposes of this subsection, administrative costs are those direct, indirect, and overhead costs associated with the management and supervision of the program which do not directly and immediately affect participants. Costs as may be attributable to the development of training described in section 205(1)(A)(xv) shall not be counted as a part of the cost of administration.

"(c) COMBINED COST LIMITATIONS.—

"(1) LIMITATIONS.—Not more than 40 percent of the funds expended by a service delivery area for any fiscal year for programs under either part A or C of title II may be expended for administrative costs (as defined under subsection (b)) and costs specified in paragraph (2).

"(2) COST COMBINATIONS.—(A) For purposes of paragraph (1), the costs specified in this paragraph are—

"(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

"(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3); and

"(iii) participant support services as described in section 205(2).

"(B) For purposes of paragraph (1), the costs specified in subparagraph (A) of this paragraph do not include expenditures for tryout employment which meet the requirements of section 277(d)(3)(B).

"(3) COST REQUIREMENTS.—For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

"(A) the work experience is of not more than 6 months' duration and is combined (concurrently or consecutively) with a classroom or other training program;

"(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

"(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

"(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

"(d) LIMITATION ON TRAINING RELATED SERVICES.—Of the remainder of the funds expended for programs under either part A or C of title II (after deduction of the amounts expended for purposes described in subsections (b) and (c)), not more than 15 percent may be expended for training related services described in section 205(1)(B).

"(e) DUPLICATIVE SERVICES PROHIBITED.—Participant support services (as described in section 205(2)) provided under the job training plan shall not duplicate services provided by any other public or private sources that are available to participants without cost.

"(f) LIMITATIONS ON GOVERNOR'S AUTHORITY TO DISAPPROVE.—The Governor shall not disapprove any plan (or modification thereof) on the basis of costs in the job training plan if such plan or modification meets the requirements of this subsection.

"(g) RURAL CEP'S.—The provisions of this section do not apply to any service delivery area designated pursuant to section 101(a)(4)(A)(iii).

"(h) NO EXEMPTION FROM PERFORMANCE STANDARDS.—This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

"(i) CHARGING TO COST CATEGORIES REQUIRED.—Except as provided in section 141(d)(3), expenditures of programs under this Act shall be charged to appropriate cost categories.".

SEC. 5. AMENDMENTS TO PART B OF TITLE I: ADDITIONAL STATE RESPONSIBILITIES.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.—Section 121(b) of the Act is amended—

(1) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The plan may describe the State's criteria for acceptable verification and documentation of participant eligibility including that of other related programs not authorized under this Act. If such criteria are approved by the Secretary, they shall be deemed to meet the requirements of sections 203(a) and 273.".

(b) GOVERNOR'S AUTHORITY.—Section 121 of the Act is amended by adding at the end thereof the following new subsection:

"(e) In providing for preservice and in-service training for planning, management, and program staffs of administrative entities and private industry councils, as well as contractors for State supported programs, as provided by subsection (c)(9), the Governor shall take into account the training available under part H of title IV and shall have authority to adopt, consistent with the provisions of this Act, professional training curricula and administrative competency standards, which reflect the laws, regulations, guidelines, and policies adopted by the State, providing for implementation of the programs under this Act.".

(c) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3)(B)(i) of the Act is amended by inserting after "agencies or equivalent," the following: "State agencies primarily responsible for administration of programs for older workers,".

(d) STATE LABOR MARKET INFORMATION PROGRAMS.—Section 125(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) provide training and technical assistance to support comprehensive career guidance and participant outcome activities for local programs assisted under this Act.".

(e) IDENTIFICATION OF STATE IMPOSED REQUIREMENTS.—Part B of title I of the Act is amended by adding at the end thereof the following new section:

"IDENTIFICATION OF STATE REQUIREMENTS

"SEC. 128. The imposition of any State rule, regulation, policy, or performance standard relating to the administration and operation of programs funded by this Act (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.".

SEC. 6. AMENDMENTS TO PART C OF TITLE I: PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEMS.

(a) RESTRICTIONS ON SINGLE UNIT CHARGING.—Section 141(d)(3) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary institution which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) AUTHORITY FOR COUNTIES AND CITIES TO PROVIDE MUTUAL SERVICES.—Section 141(e) of the Job Training Partnership Act is amended by inserting before the period at the end thereof the following: ", and services by a services delivery area that is a city or county to individuals who are residents of either that city or that county if the city is located within the county's boundaries and is a separate service delivery area.".

(c) LIMITATION ON DURATION OF ON-THE-JOB TRAINING.—Section 141(g) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraphs (2) and (3):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed 6 months. In making this determination, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the participant's training, and the participant's service strategy.

"(3)(A) Each on-the-job training contract must—

"(i) specify the types and duration of on-the-job training to be developed and other services to be performed so that proposed costs can be fairly analyzed; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer but instead is contracted through an intermediary brokering contractor must, in addition to the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, or other services the brokering contractor agrees to provide within its own or-

ganization, what will be provided by the employers actually conducting the on-the-job training, and what planned services may be provided with or without cost by other agencies and subcontractors.

"(C) Whenever a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(d) MINIMUM WAGE.—Paragraphs (2) and (3) of section 142(a) of the Job Training Partnership Act (29 U.S.C. 1552(a)) are each amended by striking out "6(a)(1)" and inserting in lieu thereof "6".

SEC. 7. AMENDMENTS TO PART D OF TITLE I: FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS.

(a) ADVANCE PAYMENT.—Section 162 of the Act is amended by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, and service delivery areas may use advance payment method systems, except that such advance payments shall be based on financial need of such organization and shall not exceed 20 percent of the total contract amount.".

(b) FISCAL ACCOUNTABILITY.—Section 164 of the Act is amended—

(1) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end of such subsection the following new paragraphs:

"(2) When a recipient is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (3), the administrative law judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the recipient.

"(3) For the purpose of paragraph (2), mitigating circumstances may be found to exist when it would be unjust to compel the recovery of funds because the recipient—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the recipient submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient."; and

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

"(i) Each recipient, subrecipient, and service provider receiving funds under this Act shall follow the directives of the applicable Office of Management and Budget Circulars or the Common Rules governing uniform administrative requirements and cost principles for governmental, nonprofits, and private for profit entities, or both, except that subrecipients of States and their subrecipients shall follow the detailed procurement requirements of the Circulars or the Common Rules, or both, when procuring property and services under a grant and shall follow the same requirements, as applicable, in the award of financial assistance to subgrantees.

"(j)(1) Interest income, as defined in section 4, shall be retained by the service delivery area to defray expenditures for allowable and appropriate activities under this Act. Expenditures of interest income shall be in accordance with cost limitations in this Act.

"(2) Ordinarily, interest income shall be deducted from total allowable expenditures to determine the net allowable expenditures. Interest income shall be used for current expenditures, unless the Secretary authorizes otherwise. Interest income which the recipient did not anticipate at the time of the award shall be used to reduce the Department's and recipient's contributions rather than to increase the funds committed to the authorized activities.

"(k) Funds provided under this Act may not be used for any fee or profit to governmental units, and grantees and subgrantees as defined by the Office of Management and Budget Circulars or the Common Rules, or both. Funds provided under this Act may be used for a reasonable fee or profit to private for profit entities and cost-type administrative service contractors.

"(l) The Governor of each State shall submit to the Secretary a semiannual report that, in accordance with regulations prescribed by the Secretary, specifies the amount of expenditures by each service delivery area under title II of this Act from the appropriations for particular fiscal years. Such specification shall continue to be reported until the appropriation has been entirely expended or until the authority to expend funds from the appropriation has expired. The semiannual report next following any such entire expenditure or expiration shall specify the total expenditures made under title II from that appropriation.

"(m) The Secretary shall establish procedures to permit grantees to utilize current year grant funds for reasonable and necessary staff and accounting costs associated with audit resolutions of prior year grants in any departmental proceeding when insufficient funds for this purpose remain available to the grantee from such prior year grants.".

(c) BYPASS AUTHORITY.—Section 164(b) of the Act is amended—

(1) by striking the period at the end of the first sentence of paragraph (1) and inserting the following: "unless (A) the service delivery area corrects the failure, (B) the service delivery area submits an acceptable modification to its plan pursuant to section 104(c), or (C) a new service delivery area is designated under section 101.";

(2) by striking the second sentence of paragraph (1); and

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

"(3) If the Governor, for any reason, fails to implement the provisions of this subsection, the Secretary, after notification of the Governor, shall take corrective actions required by paragraph (1).".

(d) REPORTING REQUIREMENTS.—Section 165 of the Act is amended—

(1) by striking paragraph (1) of subsection (c) and inserting the following:

"(1) make such annual reports concerning its operations and expenditures as shall be prescribed by the Secretary, and"; and

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

"(d) The reports required in subsection (c) shall include (but not be limited to) information pertaining to—

"(1) the demographic characteristics, including the prior work history, earnings, welfare history, and other related information about enrollees and participants;

"(2) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(3) program outcomes for participants; and

"(4) specified program costs.

"(e) The Secretary shall ensure that all elements required for the reports described in subsection (d) are defined and reported consistently, to the maximum extent feasible.

"(f) Each recipient, subrecipient, and service provider shall maintain records of revenues and expenditures for at least 3 years following the expiration of the grant period.".

SEC. 8. AMENDMENT TO TITLE II: IMPROVED DELIVERY OF SERVICES TO ADULTS AND YOUTH.

(a) REVISION OF TITLE II.—Title II of the Act is amended to read as follows:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT AND OLDER WORKER PROGRAMS

"SEC. 201. ALLOTMENT.

"(a) TERRITORIAL ALLOTMENT.—Not more than $2,500,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, and the Commonwealth of the Northern Marianas.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(2) MINIMUM STATE ALLOTMENTS.—(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

"(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such for-

mula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

"(3) DEFINITIONS.—For purposes of paragraph (1)—

"(A) the term 'excess number' means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

"(B) the term 'economically disadvantaged' means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level.

"SEC. 202. WITHIN STATE ALLOCATION.

"(a) SERVICE DELIVERY AREA ALLOCATIONS.—

"(1) AMOUNT FOR ALLOCATION.—The Governor shall, in accordance with section 162, allocate 84 percent of the allotment of the State (under section 201(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

"(2) ALLOCATION FORMULA.—Subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged individuals within each service delivery area compared to the total number of economically disadvantaged individuals in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(3) HOLD-HARMLESS REQUIREMENT.—For fiscal years beginning after September 30, 1986, no service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3(a)(1) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(4) DEFINITIONS.—For the purpose of this section—

"(A) the term 'excess number' means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

"(B) the term 'economically disadvantaged' means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level.

"(b) STATE SET-ASIDES.—

"(1) EDUCATION.—Eight percent of the allotment of each State (under section 201(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

"(2) PERFORMANCE INCENTIVES.—

"(A) Three percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

"(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs that exceed applicable performance standards (except for performance standards relating to costs) and serve more than the minimum percentage of individuals required by section 203(a)(2). The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State in an equitable proportion based on the degree by which the service delivery areas exceed the applicable performance standards and the requirements of section 203(a)(2). If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State.

"(3) AUDITING AND ADMINISTRATION.—Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities, and for other activities under sections 121 and 122. The total amount which shall be available for such purposes under this paragraph and section 272(b)(3) shall not be less than $450,000, notwithstanding subsection (a)(1) of this section.

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) GENERAL REQUIREMENTS.—

"(1) ECONOMIC DISADVANTAGE.—Except as provided in paragraph (3), an individual shall be eligible to participate in programs receiving assistance under this part only if such individual is an adult who is economically disadvantaged. An individual who is employed is eligible to participate in programs receiving assistance under this part, including basic skills training, literacy training, and English proficiency instruction, if such individual meets the requirements of this paragraph.

"(2) ADDITIONAL REQUIREMENTS FOR ONE-HALF OF PARTICIPANTS.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be individuals who, in addition to meeting requirements of paragraph (1), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropouts;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(l)(2)(B) of the Social Security Act or have been provided an employability plan in accordance with section 482(b) of the Social Security Act; or

"(D) unemployed for the previous 6 months or longer.

"(3) BARRIERS TO EMPLOYMENT.—Up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, individuals who have limited English-language proficiency, or are displaced homemakers, school dropouts, disabled, older workers, veterans, offenders, substance abusers, alcoholics, or homeless.

"(b) ADDITIONAL SERVICE REQUIREMENTS.—

"(1) SERVICE TO OLDER WORKERS.—(A) Each service delivery area shall make special efforts to identify and serve eligible individuals 55 years of age or older. Not less than 6 percent of the funds available to each service delivery area under this part shall be expended to provide services to such individuals.

"(B) In providing the services required by subparagraph (A) of this paragraph, the State job training coordinating council and the service delivery area shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965.

"(C) In the selection of service providers to serve older individuals, the service delivery area shall give priority to those national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(2) RATIO OF PUBLIC TO PRIVATE SECTOR POSITIONS.—In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

"(3) CHILD CARE.—Each State job training coordinating council and service delivery area shall make reasonable efforts to encourage job training providers to provide child care services to the children of individuals participating in training programs under this title, at minimal cost to such participants.

"(c) DEFINITIONS.—

"(1) ADULT.—As used in this part, the term 'adult' means an individual who is 22 years of age or older.

"(2) ELIGIBILITY DETERMINATIONS.—For purposes of subsection (a)(2)—

"(A) determinations of a participant's eligibility under subparagraph (A) of such subsection shall be made by means of such tests as may be designated in the plan submitted pursuant to section 104, subject to standards prescribed by the Secretary; and

"(B) determinations of a participant's eligibility under subparagraph (B), (C), or (D) of subsection (a)(2) shall be made in accordance with guidance provided by the Secretary.

"SEC. 204. PROGRAM DESIGN.

"(a) ASSESSMENTS, STRATEGIES, AND SERVICES.—The program under this part shall include—

"(1) an assessment of the participants' skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify the employment goal (including, where appropriate, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate—

"(A) basic skills training, including language skills training; and

"(B) occupational skills training.

"(b) COMBINATIONS OF SERVICES.—

"(1) REQUIRED COMBINATIONS.—Except as provided in paragraph (2), job search, job search skills training, job club, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(2) EXCEPTIONS.—The program under this part may provide job search, job search skills training and job club activities to a participant without the additional services described in paragraph (1) only if—

"(A) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(B) the activities are not available to the participant through the Employment Service or other public agencies.

"(c) CONTINUATION OF COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after termination from the program.

"SEC. 205. USE OF FUNDS.

"Services which may be made available with funds provided under this title may include (but need not be limited to)—

"(1) TRAINING.—

"(A) DIRECT TRAINING SERVICES.—

"(i) Remedial education and basic skills training.

"(ii) Institutional skill training.

"(iii) On-the-job training.

"(iv) Programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment.

"(v) Training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply.

"(vi) Upgrading and retraining.

"(vii) Literacy training.

"(viii) Bilingual training.

"(ix) School-to-work transition activities;

"(x) Work experience, subject to limitations under section 108 of this Act.

"(xi) Vocational exploration.

"(xii) Attainment of certificates of high school equivalency.

"(xiii) Preapprenticeship programs.

"(xiv) Onsite industry-specific training programs supportive of industrial and economic development.

"(xv) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

"(xvi) Use of advanced learning technology for education, job preparation and skills training.

"(B) TRAINING RELATED SERVICES.—

"(i) Assessment of participant's skill levels and service needs.

"(ii) Job search assistance.

"(iii) Job counseling.

"(iv) Outreach to make individuals aware of, and encourage the use of, employment and training services.

"(v) Outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.

"(vi) Specialized surveys not available through other labor market information sources.

"(vii) Programs to develop work habits and other services to individuals to help them obtain and retain employment.

"(viii) Job development.

"(ix) Disseminating information on program activities to employers.

"(x) Development of job openings.

"(xi) Coordinated programs with other Federal employment-related activities.

"(2) PARTICIPANT SUPPORT SERVICES.—

"(A) Supportive services, as defined in section 4(24) of this Act, necessary to enable individuals to participate in the program, and to assist them, for not to exceed 12 months following completion of training, to retain employment.

"(B) Needs-based payments necessary to participation in accordance with a locally developed formula or procedure.

"(C) Follow-up services with participants placed in unsubsidized employment.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 251. PURPOSE.

"The purpose of programs assisted under this part is—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion, or enrollment in supplementary or alternative school programs; and

"(3) to provide eligible youth with exposure to the world of work.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, the Commonwealth of the Northern Marianas, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of sums appropriated pursuant to section 3(a)(2) shall be allotted among States in accordance with section 271(b) and allocated among service delivery areas within States in accordance with section 272(a) (2), (3), and (4).

"SEC. 253. USE OF FUNDS.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

Notwithstanding the 15 percent limitation in paragraph (3), up to 20 percent may be expended for administrative costs if a recipient receives less than $200,000 in grant funds for each program year.

"(b) BASIC AND REMEDIAL EDUCATION.—A service delivery area shall expend funds (from this Act or otherwise available to the service delivery area, or both) for basic and remedial education as described in the job training plan under section 104.

"(c) ASSESSMENT.—Each participant under this part shall be provided with an assessment of their skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program). It shall be the responsibility of the service delivery area to develop a service strategy for participants which shall identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) FOLLOWUP SERVICES.—Followup services shall be made available for participants for whom a service strategy is developed in accordance with this section.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—Programs under this part shall be conducted during the summer months, except that a service delivery area may, within the jurisdiction of any local educational agency that operates its schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) ELIGIBLE PARTICIPANTS.—Individuals eligible under this part shall be economically disadvantaged youth.

"(c) YOUTH.—As used in this part, the term 'youth' means an individual who is aged 14 through 21.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils,

and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under parts A and C of title II.

"(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with the provisions of subsection (a), each service delivery area shall establish written program goals and objectives which shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.

"PART C—YEAR-ROUND YOUTH SERVICES

"SEC. 271. ALLOTMENT.

"(a) TERRITORIAL ALLOTMENT.—Not more than $2,500,000 of the amount appropriated pursuant to section 3(a)(3) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, and the Commonwealth of the Northern Marianas.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), of the remainder of the amount available for this part for each fiscal year—

"(A) 60 percent shall be allotted on the basis of the relative number of unemployed individuals who reside within the State who are 16 years of age or older as compared to the total number of such individuals in all the States;

"(B) 20 percent shall be allotted on the basis of the relative number of economically disadvantaged youth residing in each State as compared to the total number of such youth in all the States; and

"(C) 20 percent shall be allotted on the basis of the relative number of recipients of Aid to Families with Dependent Children who reside in each State as compared to the total number of recipients of Aid to Families with Dependent Children in all the States, except that the Secretary shall first allot to the Commonwealth of Puerto Rico a share of such 20 percent equal to the share that such Commonwealth receives under subparagraph (B).

"(2) MINIMUM STATE ALLOTMENTS.—(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

"(B) No State shall be allotted less than 90 percent, or more than 110 percent, of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

"(3) DEFINITIONS.—For purposes of paragraph (1), the term 'economically disadvantaged' has the meaning given such term in section 201(b)(3)(B).

"SEC. 272. WITHIN STATE ALLOCATION.

"(a) SERVICE DELIVERY AREA ALLOCATIONS.—

"(1) AMOUNT FOR ALLOCATION.—The Governor shall, in accordance with section 162, allocate 84 percent of the allotment of the State (under section 271(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

"(2) ALLOCATION FORMULA.—Subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 60 percent shall be allocated on the basis of the relative number of unemployed individuals who reside within the service delivery area who are 16 years of age or older as compared to the total number of such individuals in all the service delivery areas within the State;

"(B) 20 percent shall be allocated on the basis of the relative number of economically disadvantaged youth residing in the service delivery area as compared to the total number of such youth residing in all the service delivery areas within the State; and

"(C) 20 percent shall be allocated on the basis of the relative number of recipients of Aid to Families with Dependent Children who reside in the service delivery area as compared to the total number of recipients of Aid to Families with Dependent Children in all the service delivery areas within the State.

"(3) HOLD-HARMLESS REQUIREMENT.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent, or more than 110 percent, of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3(a)(3) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(4) DEFINITIONS.—For purposes of this section, the term 'economically disadvantaged' have the meanings given such terms in sections 271(b)(3).

"(b) STATE SET-ASIDE.—

"(1) EDUCATION.—Eight percent of the allotment of each State (under section 271(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

"(2) PERFORMANCE INCENTIVES.—

"(A) Three percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B).

"(B) The amount reserved under subparagraph (A) shall be used by the Governor to provide incentive grants for programs that exceed applicable performance standards (except for performance standards relating to costs) and serve more than the minimum percentage of out-of school youth required by section 273(b). The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State in an equitable proportion based on the degree by which the service delivery areas exceed the applicable performance standards and the requirements of section 273(b) and (c). If the full amount reserved under subparagraph (A) is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State.

"(3) AUDITING AND ADMINISTRATION ACTIVITIES.—Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities and for other activities under sections 121 and 122. The total amount which shall be available for such purposes under this paragraph and section 202(b)(3) shall not be less than $450,000, notwithstanding subsection (a)(1) of this section.

"SEC. 273. ELIGIBILITY FOR SERVICES.

"(a) ECONOMIC DISADVANTAGE.—Except as provided in subsection (d), an individual shall be eligible to participate in programs receiving assistance under this part if such individual is an economically disadvantaged youth, or is receiving (or has been determined to be eligible to receive) a free lunch under the National School Lunch Act. For purposes of this part the term 'youth' means an individual who is aged 14 through 21.

"(b) ADDITIONAL REQUIREMENT FOR ½ OF PARTICIPANTS.—Not less than 50 percent of the participants in a service delivery area shall be out-of-school youth, with priority given to school dropouts. Of such out-of-school youth, not less than 50 percent shall be youth who are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) school dropout; or

"(3) pregnant or parenting.

"(c) IN-SCHOOL YOUTH.—Of the remaining percentage of participants, not less than 50 percent of the participants shall be youth—

"(1) who are basic skills deficient;

"(2) who have poor academic records which, for purposes of this paragraph, means performing at least one year below the grade level appropriate to that individual's age;

"(3) who are pregnant or parenting; or

"(4) who have limited English-language proficiency.

"(d) BARRIERS TO EMPLOYMENT.—Up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged, if there are potential barriers to the employment of such individuals. Such individuals may include, but are not limited to, individuals who have limited English-language proficiency, or who are school dropouts, parents, disabled, offenders, substance abusers, alcoholics, or homeless.

"SEC. 274. PROGRAM DESIGN.

"(a) YEAR ROUND PROGRAMS.—The program under this part shall be conducted on a year-round basis.

"(b) ASSESSMENTS, STRATEGIES, AND SERVICES.—The program under this part shall include—

"(1) an assessment of participants' skill levels and service needs which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals (including interests and aptitudes for nontraditional jobs), and appropriate services for partici-

pants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of such participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training, including language skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) COMBINATIONS OF SERVICES.—Work experience, job search, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequenticlly or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(d) CONTINUATION OF COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after termination from the program.

"(e) LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include (but are not limited to)—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of and procedures for assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including where appropriate, interim assessment results.

"SEC. 275. USE OF FUNDS.

"(a) GENERAL TITLE II SERVICES.—Services which may be made available to youth with funds provided under this part may include, but need not be limited to, services described in section 205.

"(b) ADDITIONAL SERVICES.—Services which may be made available to youth with funds made available under parts B and C of this title may include training or education that is combined with meaningful and constructive community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations.

"SEC. 276. EXEMPLARY YOUTH PROGRAMS.

"(a) AUTHORITY TO CONDUCT PROGRAMS.—In addition to the services for youth which may be available in accordance with section 275, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e), each of which may be modified by the plan to accommodate local conditions.

"(b) EDUCATION FOR EMPLOYMENT PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of an 'education for employment program' for eligible youth who have not attained a high school diploma or who have educational deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

"(2) LEARNING CENTERS.—The education for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

"(3) CURRICULA DESIGN.—The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic education competency requirements.

"(4) PRIORITY TO COST-EFFECTIVE, SUCCESSFUL PROGRAMS.—For purposes of this section priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet criteria under this Act.

"(c) PREEMPLOYMENT SKILLS TRAINING PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of a 'preemployment skills training program' for youth, with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

"(2) UP TO 200 HOURS OF INSTRUCTION AND ACTIVITIES.—The preemployment skills training program may provide youth up to 200 hours of instruction and activities.

"(3) PERMISSIBLE ACTIVITIES.—The instruction and activities may include—

"(A) assessment, testing, and counseling;

"(B) occupational career and vocational exploration;

"(C) job search assistance;

"(D) job holding and survival skills training;

"(E) basic life skills training;

"(F) remedial education;

"(G) labor market information; and

"(H) job-seeking skills training.

"(d) ENTRY EMPLOYMENT EXPERIENCE PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of an 'entry employment experience program' for youth who—

"(A) have completed preemployment skills training or its equivalent;

"(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this paragraph may be waived in accordance with criteria established in the job training plan; and

"(C) are enrolled, or will (at the time of program participation) be enrolled, in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term,

with priority given to youth who do not plan to continue on to post-secondary education.

"(2) MAXIMUM NUMBER OF HOURS.—Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

"(3) PERMISSIBLE EMPLOYMENT EXPENSES.—Entry employment experiences may be one of the following types:

"(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

"(B) Tryout employment at private for-profit worksites, or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a single tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and may not be refilled if the previous participant completed the tryout employment but was not hired by the employer.

"(C) Cooperative education programs to coordinate educational programs with work in the private sector.

"(e) SCHOOL-TO-WORK TRANSITION ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of a 'school-to-work transition assistance program' for youth who are—

"(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

"(B) dropouts, with followup as immediately as possible after leaving school.

"(2) TRANSITION SERVICES.—Transition services include—

"(A) provision of occupational information;

"(B) short-duration job search assistance;

"(C) job clubs;

"(D) placement and job development; and

"(E) followup.

"(3) INFORMATION AND REFERRALS.—Seniors and dropouts who are eligible for and in need of training activities may be provided information and, where appropriate, referred to—

"(A) preemployment skills training, entry employment experience, and remedial education; and

"(B) other training activities under this Act, including the Job Corps.

"(f) INTERPROGRAM REFERRALS.—The job training plan should provide for referrals of youth between programs funded under parts B and C. Such efforts shall result in maximizing available resources to enhance the provision of services to disadvantaged youth.".

(b) CONFORMING AMENDMENTS.—

(1) NONTRADITIONAL EMPLOYMENT OPPORTUNITIES.—Section 104(b) of the Act is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting a semicolon; and

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

"(12) a description of plans for—

"(A) training in nontraditional employment; and

"(B) training-related placement in nontraditional employment and apprenticeships.".

(2) OLDER WORKERS.—Part B of title I of the Act is amended by striking section 124.

(c) CLERICAL AMENDMENTS.—(1) The table of contents of the Act is amended—

(A) by striking the portion pertaining to title II and inserting the following:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT AND OLDER WORKER PROGRAMS

"Sec. 201. Allotment.
"Sec. 202. Within State allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Use of funds.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.

"PART C—YEAR-ROUND YOUTH SERVICES

"Sec. 271. Allotment.
"Sec. 272. Within State allocation.
"Sec. 273. Eligibility for services.
"Sec. 274. Program design.
"Sec. 275. Use of funds.
"Sec. 276. Exemplary youth programs."; and

(B) by striking the item pertaining to section 124.

(2) Section 122(a)(1) of the Act is amended by striking "section 202(b)(4)" and inserting "sections 202(b)(3) and 272(b)(3)".

(3) Section 123(a) of the Act is amended by striking "section 202(b)(1)" and inserting "sections 202(b)(1) and 272(b)(1)".

(4) Section 125(a) of the Act is amended by striking "section 202(b)(4)" and inserting "sections 202(b)(3) and 272(b)(3)".

SEC. 9. AMENDMENTS TO PART A OF TITLE IV: EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICAN AND MIGRANT AND SEASONAL FARMWORKERS.

(a) ADMINISTRATION OF NATIVE AMERICAN PROGRAMS.—

(1) PERSONNEL.—Section 401 of the Act is amended by adding at the end thereof the following new subsection:

"(k)(1) There shall be in the Department of Labor a Division of Indian and Native American Programs which shall be responsible for administering Native American employment and training programs.

"(2) The Chief of such Division shall have experience with the operation of Native American employment and training programs. Prior to selection of the Chief, and pursuant to merit selection procedures, the Secretary shall provide a list of qualified candidates for such position to the Native American Human Investment Council, allowing adequate time for review and recommendation. The Secretary shall appoint the Chief of such division from a list of recommendations by the council of qualified candidates.

"(3) The Chief of such Division shall—

"(A) administer the provisions of this section, including (i) making recommendations on the selection of the recipients of funds, consistent with practices of other divisions within the Department, and (ii) the monitoring of programs authorized;

"(B) develop programmatic policies and procedures related to the implementation of such programs;

"(C) coordinate the policies and procedures for employment and training programs of the division with other related Federal programs and services for Native Americans within the Department.

"(4)(A) In the hiring of professional staff of the Division, special consideration shall be given to (i) individuals who have field experience in the daily operation of service and training programs for Native Americans, and (ii) individuals who are Indians or Native Alaskans. Such consideration under clause (ii) shall be implemented in the same fashion as that given to veterans in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment and outreach of Indians, Native Alaskans, and Native Hawaiians to positions in the Division.

"(B) The provisions of this paragraph shall apply to personnel actions taken after the date of enactment of this subsection.

"(C) The Secretary shall provide a one-time special consideration (as defined in paragraph (4)) for individuals who are not Indians or Native Alaskans and are serving within such Division on the date of enactment of this subparagraph and who desire to take another position for which they are qualified within the Department and for which there is a vacancy.".

(2) CONSULTATION.—Section 401 of the Act is further amended—

(A) in subsection (h)(1), by inserting "the Native American Human Investment Council and" before "representatives of Indians and other Native Americans"; and

(B) by adding at the end thereof the following new subsection:

"(l)(1) There is hereby established a Native American Human Investment Council (hereinafter in this subsection referred to as the 'Council') which shall consist of not less than 17 Indians, Native Alaskans, and Native Hawaiians appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Native Alaskan, and Native Hawaiian organizations. The Council's membership shall represent diverse geographic areas and include representatives of tribal governments and of nonreservation Native American organizations who are service providers under this Act with experience in operating job training programs. A majority of the members of the advisory committee shall have field experience in the operation of the program authorized under this section.

"(2) The Council shall be chaired by a Council member elected by a majority of the Council's membership. The Council shall meet not less than twice each program year.

"(3) Members of the Indian and Native American Advisory Council which existed before the enactment of this paragraph—

"(A) shall serve as members of the Council until successors are appointed; and

"(B) may be appointed as members of the new Council.

"(4) The term of office for members of the Council shall be two years, except that—

"(A) the Secretary shall designate one-half of the initial appointments of members of the Council for terms of one year;

"(B) any vacancy shall be filled in the same manner as the original appointment;

"(C) any member appointed to such a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(D) members may be reappointed.

"(5) The membership of the Council shall be appointed by the beginning of program year 1991.

"(6) The Council shall—

"(A) solicit the views of a wide variety of tribes and Native American groups, including those operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(B) advise and make recommendations to the Secretary with respect to rules, regulations, policies, and practices concerning programs under this section and other programs providing services to Native American youth and adults under this Act;

"(C) advise and make recommendations to the Secretary with respect to the design and implementation of performance standards, and any proposed variations thereto, developed under subsection (h) of this section;

"(D) review and make recommendations to the Secretary on the list of nominees for the position of Chief of the Division of Indian and Native American Programs whenever a vacancy in such position occurs; and

"(E) report directly to the Secretary and the Congress no later than January 1 of each even numbered year on the progress of Native American job training programs and make recommendations for improving their administration and effectiveness.

"(7) Members of the Council shall serve without compensation but shall be entitled to reimbursement for their expenses in the performance of their duties. The Secretary shall provide the Council with such administrative support as may be necessary to the performance of its functions.".

(b) COMPETITION FOR SECTION 402 GRANTS.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The competition for grants under this section shall be conducted every two years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition upon receipt from the grantee of a satisfactory two-year program plan for the succeeding two-year grant period.".

SEC. 10. AMENDMENTS TO PART B OF TITLE IV: JOB CORPS.

(a) JOB CORPS PARTICIPATION.—Section 423(1) of the Act is amended—

(1) by striking "age 22" and inserting "age 25"; and

(2) by striking "except that" and all that follows through "handicapped individual".

(b) CLARIFICATION OF AUTHORITY TO TRANSFER PARTICIPANTS TO AND FROM PROGRAMS UNDER TITLE II.—Section 426 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit an individual who has been a participant in the Job Corps from concurrently or subsequently participating in programs under title II of this Act, or to prohibit an individual who has been a participant in programs under title II of this Act from concurrently or subsequently participating in the Job Corps.".

(c) INCREASING LIMITATION ON NONRESIDENTIAL PARTICIPANTS.—Section 427(a)(2) of the Act is amended—

(1) by striking "10 percent" and inserting "20 percent"; and

(2) by adding at the end of paragraph (2) the following new sentence: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.".

(d) CONSERVATION CENTERS.—Section 427 of the Act is amended by adding at the end thereof the following new subsection:

"(d) No funds appropriated to the Department of Labor for any fiscal year may be used to execute or carry out any contract with a nongovernmental entity to administer or manage a Civilian Conservation Center of the Job Corps on public land.".

(e) ADDITIONAL SUPPORT SERVICES REQUIRED.—Section 428 of the Act is amended by adding at the end thereof the following new subsections:

"(e) The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

"(f) Each Job Corps center shall provide to enrollees who are dependent on, or who have a history of abuse of, alcohol or drugs with counseling and referral to related services necessary to prevent the continuance or recurrence of such dependency or abuse.".

(f) JOB CORPS CENTERS FOR HOMELESS FAMILIES.—Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

"SEC. 433A. (a) Subject to the availability of appropriations therefor, the Secretary is authorized to, in accordance with section 427, provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and child care, to the extent practicable, for dependent children of enrollees; and

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(e) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section.".

(g) MANAGEMENT FEES.—Section 437 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of section 164(k)(1), the Secretary shall provide all nonprofit Job Corps contractors with an equitable and negotiated management fee of not less than one percent of the contract amount.".

SEC. 11. AMENDMENTS TO PART D OF TITLE IV: NATIONAL ACTIVITIES.

(a) OFFENDER DEMONSTRATION PROJECTS.—Section 452 of the Act is amended by adding at the end thereof the following new subsection:

"(c) OFFENDER DEMONSTRATION PROJECTS.—

"(1) AWARD.—The Secretary shall award not more than 10 grants to service delivery areas under this title for the establishment and operation of juvenile offender demonstration projects.

"(2) PRIORITY TO AREAS WITH HIGH PROPORTION OF JUVENILE OFFENDERS.—In awarding funds under this subsection, the Secretary shall give priority to service delivery areas serving demonstration target areas with high proportions of juvenile offenders.

"(3) COUNSELING AND SUPERVISION.—Any demonstration program funded under this subsection shall—

"(A) incorporate an alcohol and drug abuse counseling program; and

"(B) provide close supervision and counseling and followup to each participant by qualified personnel from the time of the participant's enrollment until 6 months after the participant's enrollment has ended.

"(4) MINIMUM DURATION.—Any demonstration program funded under this subsection should provide no fewer than 6 months of service to participants.

"(5) ELIGIBILITY FOR SERVICES.—Enrollment in projects under this subsection shall be made available to youth who have been referred to service providers by schools, youth commissions, the courts (preadjudication), and after care programs (post detention).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this subsection, $1,000,000 for each of the fiscal years 1991 and 1992.".

(b) GUIDANCE.—Section 455 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A, B, and C of title II of this Act as amended by the Job Training Partnership Amendments of 1990.

"(2) The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

"(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

"(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

"(3) The guidance described in paragraph (1) shall be provided not later than July 1, 1991.".

SEC. 12. AMENDMENTS TO PART E OF TITLE IV: LABOR MARKET INFORMATION.

(a) COOPERATIVE LABOR MARKET INFORMATION.—Section 462 of the Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The Bureau of Labor Statistics shall engage in research, demonstration, or other activities, including those which might be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment for all individuals for whom such information is collected by the States, and/or to demonstrate the policy research and program evaluation applications of such information.

"(2) In cooperation with the States, the Bureau shall determine appropriate procedures for establishing and maintaining such information in a longitudinal manner and appropriate policies for making such information available for policy research or program evaluation purposes or both, while ensuring the confidentiality of information and the privacy of individuals.

"(3) The Secretary of Labor shall make a report to Congress not later than 12 months after the enactment of this Act which shall describe the costs and benefits, including savings on program followup surveys, of such a database and the steps that have been taken and the schedule for any remaining steps necessary to implement the provisions of this section.".

(b) SPECIAL FEDERAL RESPONSIBILITIES.—Section 463 of the Act is amended—

(1) in subsection (a), by inserting "the Secretary of Health and Human Services," after "the Secretary of Education,"; and

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

"(d) The Secretary, acting through the National Occupational Information Coordinating Committee, shall report to Congress no later than 24 months after the date of enactment of this subsection, and biennially thereafter, listing recommended common and complementary data elements and their definitions, containing an analysis of the benefits of their adoption and the implications for State and local purposes, and identifying plans and schedules for developing and maintaining this common core of data. The Secretary shall consult with experts and practitioners at the Federal, State, and local levels in the various program areas in fulfilling the requirements of this subsection.".

(c) NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.—Section 464 of the Act is amended—

(1) in subsection (a)(1) by striking "more than $5,000,000 is authorized to be reserved"

and inserting "less than $6,000,000 will be available";

(2) in subsection (a)(2) by striking "for Manpower, Reserve Affairs, and Logistics" and inserting "Force Management and Personnel";

(3) in subsection (b)(2) by inserting after "give special attention to" the following: "career development and"; and

(4) in subsection (b)(5) by inserting after "any aspect of occupational and career information systems" the following: "and coordination and compatibility of human resources data systems operated by Federal agencies or the States or both, including systems to assist economic development activities and where appropriate provide support to States in the implementation of such system enhancements.".

SEC. 13. ESTABLISHMENT OF NEW PART H OF TITLE IV: TRAINING INSTITUTES.

(a) AMENDMENT.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—TRAINING INSTITUTES

"INSTITUTES AUTHORIZED

"SEC. 486. (a) ESTABLISHMENT.—The Secretary shall establish, before July 1, 1991, a national training institute which develops a network of a minimum of two regional training institutes in order to strengthen the caliber of services provided through and management of the various Federal, State, and local employment and training programs including programs not authorized under this Act. To initiate and maintain this network, the Secretary may, on a competitive basis, award a grant or contract for a national training institute to a college or university, private nonprofit organization, community based organization, or another organization with current and specialized employment and training expertise. The Secretary shall ensure that this national institute and network of regional institutes shall—

"(1) develop curricula and provide appropriate training, technical assistance, staff development, and other activities at the national and regional institutes and at other locations which will—

"(A) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers, and

"(B) improve the quality of services provided to individuals served under this Act and other Federal employment and training programs and encourage integrated service delivery from multiple Acts using, where possible, cross trained teams;

"(C) improve the planning, procurement and contracting practices pursuant to this Act;

"(D) provide broad human services policy and planning training to private industry council volunteers and members of State human investment coordinating councils;

"(2) prepare and disseminate training curricula and materials for employment and training professionals and support staff which focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations;

"(3) disseminate innovative and successful models, materials, methods, and program information and provide training in the techniques learned from those sources to foster improved program quality and professional growth among managers, service delivery providers and administrators involved in the delivery of employment and training services; and

"(4) establish an institute board of directors which shall be broadly representative of the employment and training and other related human service systems and which shall establish institute policy and priorities, review institute performance, enhance the effectiveness and efficiency of institute operations and identify those human service strategies which require further research and demonstration and make recommendations to the Secretary for annual research and demonstration activities.

"(b) CHARGES.—The training institutes established pursuant to subsection (a) may charge appropriate tuition or fees to offset the costs of various institute training, materials acquisition, or information dissemination.

"(c) ASSISTANCE.—The Secretary shall provide guidance, technical assistance, and direction to the training institute network to ensure that training institutes respond to employment and training staff needs, furnish high quality training and materials, meet program objectives without duplication, and encourage the use of the latest technologies for training and program management.

"(d) CLEARINGHOUSE.—The Secretary is authorized to designate the National Training Institute as the clearinghouse to regularly identify, develop, and disseminate innovative materials which enhance the knowledge and quality of performance of employment and training personnel and which will—

"(1) facilitate effective communications and coordination among employment and training personnel;

"(2) establish a computer communications network to share information among employment and training personnel and institutions; and

"(3) establish linkages with existing human resources clearinghouses, including (but not limited to) the Education Research Information Centers and the National Network for Curriculum Coordination in Vocational and Technical Education.

"(e) CONSULTATION.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate the activities of the network of training institutes with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks.".

(b) CONFORMING AMENDMENT.—Section 455 of the Act is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) (as added by section 11(b) of this Act) as subsection (b).

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by inserting after the item pertaining to section 481 the following:

"PART H—TRAINING INSTITUTES

"Sec. 486. Institutes authorized.".

SEC. 14. ESTABLISHMENT OF NEW PART I OF TITLE IV: YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) AMENDMENT.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART I—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. The purposes of the Youth Opportunities Unlimited program under this part are—

"(1) to guarantee access to education and job training assistance for youth residing in high-poverty areas of urban and rural communities;

"(2) to provide a comprehensive range of education, training, and employment services to disadvantaged youth who are not currently served or are underserved by Federal education and job training programs;

"(3) to enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within those communities; and

"(4) to facilitate the coordination of comprehensive services to disadvantaged youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) PROGRAM ESTABLISHED.—The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's urban and rural communities.

"(b) AWARDS.—(1) The Secretary may only award grants under this part to the service delivery area (on behalf of the participating community) in which the target area is located, to the grantee designated under section 401 if the target area is located on an Indian reservation or Alaskan native village, or to the grantee designated under section 402 if the target area is located in a farmworker community.

"(2) In awarding grants under this part, the Secretary shall, to the extent practicable, assure that there is an equitable distribution of grants between urban and rural communities.

"(3) The Secretary may award not more than 25 grants in the first year after the program is in effect.

"(4) The Secretary shall award annually at least 1, but not more than 3, grants under this part (A) among grantees designated under section 401 representing Indian reservations and Alaskan native villages, and (B) among grantees designated under section 402 representing farmworkers.

"(c) GRANT TERM.—Grants awarded under this part shall be for a 3-year period, with funding for the second and third fiscal years in this period conditioned upon a determination by the Secretary that the grant recipient has complied with conditions of the grant during the previous fiscal year.

"(d) AWARD CRITERIA.—In awarding grants under this part, the Secretary shall consider the likelihood of successful implementation, the extent to which other Federal and non-Federal funds available for similar purposes in the community will be utilized as part of the project, and the extent to which new State, local, or private resources will be made available to carry out the project. The Secretary shall give priority to applications which designate target areas with the highest rates of poverty.

"PROGRAM REQUIREMENTS

"SEC. 493. (a) PROGRAM OF COMPREHENSIVE SERVICES.—A participating community shall use a grant awarded under this part for a program of comprehensive services for youth that meets the requirements of this section.

"(b) TARGET AREA.—A target area shall be designated which shall have a population of not more than 25,000, except that in the event that the population of an area within a single school district exceeds this limit the target area may encompass the entire district.

"(c) ALL YOUTH TO BE ELIGIBLE.—All youth who have attained age 14 but not attained age 22 at the time of enrollment and who

reside in the target area shall be eligible to participate in programs and activities assisted under this part.

"(d) INTEGRATED SERVICE DELIVERY SYSTEM.—Each participating community shall develop an integrated service delivery system in each target area which shall include, at a minimum—

"(1) a system of common intake, individualized assessment, and case management;

"(2) educational activities (combined with training as needed) to meet the needs of participants, which may include—

"(A) basic skills instruction and remedial education;

"(B) bilingual education for individuals with limited English proficiency; and

"(C) secondary educational activities designed to lead to the attainment of a high school diploma or its equivalent;

"(3) job skills training;

"(4) job readiness activities to help prepare participants for work;

"(5) job development and job placement; and

"(6) support services necessary for successful participation by eligible youths, including but not limited to child care, transportation, and assistance in resolving personal or family crises such as those related to substance abuse, homelessness, migration, and family violence.

"(e) EDUCATION REQUIRED.—Except in the event that an individual already has obtained a high school diploma or its equivalent and the basic academic skills necessary for successful participation in the labor market, programs assisted under this part shall include educational services as one component of the activities in which a participating youth is enrolled.

"(f) OUTREACH AND RECRUITMENT.—Each community shall undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by those disadvantaged youth who are currently unserved or underserved by education and training programs. Such efforts shall include targeted measures specifically designed to enlist the participation of young minority males and youth under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems.

"(g) YOUTH PROGRAM MODELS.—Each community shall offer education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(1) nonresidential learning centers,

"(2) alternative schools,

"(3) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/postsecondary education programs,

"(4) teen parent programs,

"(5) special programs run by community colleges,

"(6) youth centers,

"(7) initiatives aimed at increasing rural student enrollment in postsecondary institutions,

"(8) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(9) initiatives that combine community and youth service opportunities with education and training activities.

"(h) MEASURABLE GOALS AND OUTCOMES.—Each community shall establish measurable goals and outcomes for activities assisted under this part which shall include, at a minimum, increasing—

"(1) the proportion of eligible youth participating in education, training, and employment services;

"(2) the basic skill levels of participating youth;

"(3) the proportion of participating youth completing high school or its equivalent;

"(4) the proportion of participating youth enrolled in postsecondary institutions, apprenticeships, or other advanced training programs; and

"(5) the proportion of participating youth who obtain employment.

"(i) FISCAL REQUIREMENTS.—(1) Each community shall maintain State and local resources for education, training, and related support services in the target area at levels not less than those available for such purposes prior to the receipt of a grant under this part.

"(2) Funds received under this part shall be used by each community only to supplement and not to supplant funds provided from other Federal and non-Federal sources for education, training, and related support services available to youth in the target area.

"(j) LIMITATIONS.—(1) No funds provided under this part shall be used for tuition and fees related to enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education.

"(2) Nothing in this subsection shall be interpreted to prohibit programs receiving assistance under this part from assisting youth in identifying sources of student financial assistance, disseminating information about such assistance, otherwise encouraging and facilitating enrollment by youth in the target area at institutions of higher education, or providing necessary support services to youth in the target area who are enrolled at such institutions.

"(3) No funds provided under this part shall be used to support paid work experience programs unless such programs are combined with other education and training activities.

"APPLICATION

"SEC. 494. Each participating community desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for meeting the goals and requirements of this part;

"(2) describe the resources available in the participating community from private, local government, State and Federal sources which will be utilized in providing services to participating youth;

"(3) provide assurances that such resources will be utilized to the maximum extent feasible to meet the needs of participating youth, and that funds provided under this part will be used only to pay the costs of services not otherwise available within the community;

"(4) set forth an estimate of the number of youth expected to participate and the funds required to provide appropriate education, training, and supportive services to them; and

"(5) provide evidence of support for accomplishing the stated goals of the participating community (through a memorandum of understanding, establishment of an advisory council, or through other means) from—

"(A) local elected officials,

"(B) the local school board,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"PAYMENT; FEDERAL SHARE

"SEC. 495. (a) PAYMENTS.—The Secretary shall pay to each participating community the Federal share of the costs of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year a participating community receives assistance under this part shall be 50 percent.

"(c) LOCAL SHARE.—Each participating community may provide its share of the costs from private, local, State, or Federal sources other than funds received pursuant to this part.

"FEDERAL RESPONSIBILITIES

"SEC. 496. (a) TECHNICAL ASSISTANCE.—(1) The Secretary shall provide technical assistance to participating communities to help them develop and deliver comprehensive services in an effective manner and to otherwise meet the requirements of this part.

"(2) The Secretary may also provide technical assistance to communities to help them prepare applications for grants under this part when such assistance is necessary to ensure that those communities with the highest concentrations of poverty are able to participate in the program established under this part.

"(3) The Secretary may reserve 5 percent of the amount appropriated under this part to carry out the provisions of this subsection.

"(b) REPORTING.—The Secretary is authorized to establish such reporting procedures as may be necessary to carry out the purposes of this part.

"(c) INDEPENDENT EVALUATION.—The Secretary shall provide for a thorough, independent evaluation of the activities assisted under this part. Such evaluation shall include an assessment of—

"(1) the impact on youth residing in target areas, including (but not limited to) their rates of school completion, enrollment in advanced education or training, and employment;

"(2) the extent to which participating communities fulfilled the goal of guaranteeing access to appropriate education, training, and supportive services to all eligible youth residing in target areas who seek to participate;

"(3) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth residing in target areas; and

"(4) the effectiveness of efforts to integrate service delivery in target areas, including (but not limited to) systems of common intake, assessment, and case management.

"(d) EVALUATION REPORT.—The Secretary shall develop a report detailing the results of the independent evaluation and submit such report to the President and the Congress no later than March 31, 1995, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs funded under this part. Such report should summarize findings concerning—

"(1) whether, if a combination of education, training, career guidance, counseling, and other support services were made to youth living in designated geographic target

areas, the rates of student enrollment, retention, and completion would increase;

"(2) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(3) the feasibility of extending access to comprehensive education, training and support services and programs required under this part to all areas of the Nation, including possible approaches to the incremental extension of such access over time.

"DEFINITIONS

"SEC. 497. For the purposes of this part:

"(1) The term 'participating community' means the city or cities in a Metropolitan Statistical Area, the contiguous nonmetropolitan counties in any rural area, an Indian reservation or Alaskan native village, or farmworker community that includes the target area for the Youth Opportunities Unlimited program.

"(2) The term 'high poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, an Alaskan native village, or a farmworker community with a poverty rate of 30 percent or more as determined by the Bureau of the Census.

"(3) The term 'target area' means a high poverty area or set of contiguous poverty areas that will be the focus of the program in each participating community.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by inserting after the item pertaining to section 486 the following:

"PART I—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Program requirements.
"Sec. 494. Application.
"Sec. 495. Payment; federal share.
"Sec. 496. Federal responsibilities.
"Sec. 497. Definitions.".

SEC. 15. ESTABLISHMENT OF A NEW PART J OF TITLE IV: DISASTER RELIEF.

(a) AUTHORIZATION OF PROGRAM.—Title IV of the Job Training Partnership Act is amended by inserting after section 481 (29 U.S.C. 1781) the following new part:

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"SEC. 499A. GENERAL AUTHORITY.

"(a) QUALIFICATION FOR FUNDS.—Funds available under this part shall be allocated in a timely manner by the Secretary to the Governor of any State within which is located an area which has suffered a major disaster as defined in section 102 (1) and (2) of the Disaster Relief Act of 1974 (42 U.S.C. 5122 (1) and (2)), referred in this part as the 'disaster area'.

"(b) SUBSTATE ALLOCATION.—Not less than 80 percent of the funds made available to any Governor under subsection (a) shall be allocated by the Governor to units of general local government located, in whole or in part, within such disaster areas. The remainder of such funds may be reserved by the Governor for use, in concert with State agencies, in cleanup, rescue, repair, renovation, and rebuilding associated with such major disaster.

"(c) COORDINATION—Funds made available under this part to Governors and units of general local government shall be expended in consultation with—

"(1) agencies administering programs for disaster relief provided under the Disaster Relief Act of 1974; and

"(2) the administrative entity and the private industry council under this Act in each service delivery area within which disaster employment programs will be conducted under this part.

"SEC. 499B. USE OF FUNDS.

"(a) PROJECTS RESTRICTED TO DISASTER AREAS.—Funds made available under this part to any unit of general local government—

"(1) shall be used exclusively to provide employment on projects to provide food, clothing, shelter, and other humanitarian assistance for disaster victims and on projects of demolition, cleanup, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster areas; and

"(2) may be expended through public and private agencies and organizations engaged in such projects.

"(b) ELIGIBLE PARTICIPANTS.—An individual shall be eligible to be offered disaster employment under this part if such individual is—

"(1) eligible to participate or enroll, or is a participant or enrolled, under title III of this Act, other than an individual who is actively engaged in a training program; and

"(2) unemployed as a consequence of the disaster.

"(c) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under this part for more than 6 months for work related to recovery from a single natural disaster.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to protect the Federal fiscal interest in funds made available under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(d) of the Job Training Partnership Act (29 U.S.C. 1502(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

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

"(2) There are authorized to be appropriated to carry out part J of title IV, $15,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year. Funds appropriated pursuant to this paragraph are authorized to remain available for such part J until expended.".

(c) CLERICAL AMENDMENTS.—The table of contents of the Act is amended by inserting after the item pertaining to section 497 the following:

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"Sec. 499A. General authority.
"Sec. 499B. Use of funds.".

SEC. 16. NONTRADITIONAL EMPLOYMENT.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the workforce may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

(c) DEFINITION.—Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(38) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

(d) SERVICE DELIVERY AREA JOB TRAINING PLAN.—Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (6), (7), (8), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated by paragraph (1), by—

(A) striking "and" at the end of subparagraph (B);

(B) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment; and".

(e) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.—

(1) IN GENERAL.—Section 121(b) of the Act is amended by inserting after paragraph (3) (as redesignated by section 5(a)(1) of this Act) the following new paragraph:

"(4) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available

under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act to train and place women in nontraditional employment.".

(2) SPECIAL PROGRAMS.—Section 121(c) of the Act is amended by—

(A) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(B) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

(f) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

(g) STATE EDUCATION COORDINATION AND GRANTS.—

(1) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(C) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(2) USE OF FUNDS.—Section 123(c) is amended—

(A) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(B) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

(h) DEMONSTRATION PROGRAMS.—Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(i) REPORT AND RECOMMENDATIONS.—

(1) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(A) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(B) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration program authorized by section 457 of the Job Training Partnership Act.

(2) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

(j) DISCRIMINATION.—

(1) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(2) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the date of enactment of this Act, except that the requirements imposed by subsections (d), (e), and (f) of this section shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1991.

SEC. 17. UNIFORM REPORTING REQUIREMENTS.

(a) FINDING.—The Congress finds that closer coordination and more effective use of resources among a variety of employment and training programs can be facilitated if these programs had common data elements and definitions.

(b) DATA ELEMENTS.—Under the leadership of the Secretary of Labor, the Secretaries of Education, Health and Human Services, and such other departments as the Secretary of Labor deems useful and appropriate, shall identify a core set of consistently defined data elements for employment and training programs, including (but not limited to) those funded under titles II, III, and IV of the Act, the Wagner-Peyser Act, the Carl D. Perkins Vocational Education Act, title II of the Family Support Act, and title V of the Older Americans Act.

(c) REPORT.—The Secretary shall report to the Congress no later than January 1, 1992, listing recommended data elements and their definitions, and containing an analysis of the benefits of their adoption.

(d) CONSULTATION.—The Secretary shall consult with experts and practitioners at the Federal, State, and local levels, in the various program areas, in fulfilling the requirements of this subsection.

SEC. 18. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect for the program years beginning on or after July 1, 1991.

(b) TRANSITION.—

(1) RULES AND PROCEDURES.—The Secretary shall promulgate such rules and procedures (including interim rules and procedures) as may be necessary to provide for an orderly transition to and implementation of the amendments made by this Act. The Secretary shall promulgate interim rules and procedures no later than three months prior to the beginning of program year 1991. The Secretary shall publish final regulations in the Federal Register for the implementation of such amendments no later than October 1, 1991. Such final regulations shall not be applicable to the period of time during which interim rules and procedures are in effect.

(2) MANDATORY SUBJECTS OF RULES AND PROCEDURES.—Such rules and procedures shall address (but shall not be limited to) treatment of obligated but unexpended funds; treatment of other funds unexpended at the end of program year 1990; provision of services to participants enrolled in and not terminated from the program prior to July 1, 1991; and conduct of activities authorized under grants and contracts in effect both prior to and after the date of enactment.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 30, after line 17, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(1) by adding at the end of subsection (a) the following new paragraph:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsections (c) and (d), recipients shall maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate sample size.";

Mr. GOODLING. Madam Chairman, this amendment is a clarification of a provision in H.R. 2039 that would require the collection of data on characteristics and activities of participants in JTPA programs.

Specifically the amendment would allow the Secretary of Labor to collect, on a sample basis, valuable information on individual participants.

I believe this amendment would significantly enhance the integrity of JTPA by providing higher quality information than is currently available to us on JTPA. By looking at the many dimensions of participants in the JTPA title II and III the Department of Labor would have an increased capability to analyze activities and trends in the JTPA system.

JTPA's current administrative data source does not provide the capability to develop a through picture of the program such as determining the program activities that various participant groups are involved in, to see which groups are most likely to participate in which activities, and to see the differences in outcomes from the various activities.

This amendment which would enable the Department of Labor to obtain detailed employment history, demographic and in-program activities of participants that can then be cross tabulated. It should not be a burden to local service delivery areas.

A sampling of information that SDA's are already collecting would be adequate. Each SDA would only have to report, on average, approximately 25 participants per year.

The costs of this new requirement would ultimately be less than the current survey process on individual participants.

The return on this investment of collecting additional participant information will allow the Department of Labor to be more responsive to congressional requests and to other interested parties for insightful information on the JTPA program.

□ 1230

Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment. I believe this amendment would improve the data sampling at the service delivery area. By offering this amendment, the gentleman from Pennsylvania [Mr. GOODLING], the ranking minority member, enhances the data collection portion of H.R. 2039, and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: Page 58, strike out line 23 and all that follows through line 6 on page 59 and insert the following:

"(d) EXCEPTIONS TO ECONOMIC DISADVANTAGE REQUIREMENT.—

"(1) BARRIERS TO EMPLOYMENT.—Notwithstanding subsection (a)—

"(A) up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged, if each such individual has a barrier to his or her employment; and

"(B) up to an additional 15 percent of such participants may be individuals who are not economically disadvantaged, if each such individual is a high school dropout who has an additional barrier to his or her employment.

"(2) DEFINITION OF BARRIERS.—For purposes of this subsection, individuals who have barriers to their employment include, but are not limited to, individuals who have limited English-language proficiency, and individuals who are school dropouts, parents, disabled, offenders, substance abusers, alcoholics, and homeless.

Mr. BARTLETT. Madam Chairman, this amendment has been discussed a bit during the general debate. I want to go over some of the points of this amendment again.

First, the purpose of this amendment is to solve a real problem, a real problem for tens of thousands, indeed perhaps hundreds of thousands of young people who have dropped out of school and who are therefore in dramatic need of job training types of assistance in order to prevent them from becoming or staying chronically unemployed.

There is a real problem in the sense that many, not all, but many of these young people, who are also very poor and very impoverished, in addition are unable to verify the income of their family because their family is dysfunctional, or because they are not speaking to their family, or because sometimes they have been thrown out of their homes.

Indeed, I would suggest that any high school droput is in fact income eligible by nature of being a high school dropout, because that high school dropout is per se poor, himself or herself, and is only technically ineligible based on income because of the family's income. These high school students in many cases do not have access to family income.

Second, I would note that we have changed the amendment from committee rather dramatically to provide that the only window we are providing for this group of students, this group of young kids who would not have to verify their income, is a 25-percent window, and we are saying in addition to that that group would have to have an additional barrier, in addition to being a high school dropout. We would include additional barriers such as those who are limited English proficient, those who are disabled, those who are substance abusers, those whose parents are dropouts, those who are alcoholics, or who are homeless, or who are pregnant or who are parents.

I would suggest that this is a modest amendment.

It is one that is dramatically needed. Without this amendment in the bill, high school dropouts will continue to be largely ineligible for Job Training Partnership Act funds.

Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment.

The Bartlett amendment would expand the cap on the eligibility exemption from 10 percent to 25 percent for youth that do not meet the income guidelines, but face other barriers to employment. A similar version of this amendment was defeated in committee because it would dilute efforts to target the hardest-to-serve youth in the new title II-C Year-Round Youth Program. Let me remind my colleagues, that the primary intent of H.R. 2039 is to ensure that the least job ready be targeted for job training services.

While this amendment's expansion of the eligibility exemption requires youth to have at least two barriers to employment, it continues to dilute our primary goal of targeting hard-to-serve youth. I urge my colleagues to oppose this amendment.

Mr. GOODLING. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendment. It is properly drawn at the present time.

Mr. DOWNEY. Mr. Chairman, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am very pleased that H.R. 2039, the Job Training Partnership Act has passed. I am especially happy that the set-aside for older workers has been restored. I would like to commend the distinguished chairman of the Subcommittee on Employment Opportunities, MATT MARTINEZ for the leadership he has shown in ensuring that older workers receive the recognition they deserve.

Business and labor leaders have for several years been forecasting that there will be millions more jobs than there will be qualified workers during the 1990's and the early 21st century. The number of entry level workers is decreasing. By the year 2000, workers aged 16 to 34 will represent 38 percent of the work force—down from 50 percent in 1985. However, by the year 2020, 25 percent of our Nation's work force will be elderly. Currently, more than 32 million persons above the age of 45 are in the work force, and nearly 15 million of those are aged 55 or older. Older workers are vital to our Nation's stability and productivity. Their contributions are substantial and significant, and the passage of H.R. 2039 proves that the value of this precious resource has been acknowledged.

One of the key Federal programs we have in this Nation that allows for and promotes the employment of older workers is the Job Training Partnership Act. JTPA funding for employment and training services to older workers is provided primarily under title IIA of the act. Seventy-eight percent of annual funding to States under this title is currently provided to local service delivery area [SDA's] for job training services to eligible individuals, including older workers. Currently, 3 percent of the State title IIA allocation is set-aside specifically for services to economically disadvantaged older workers. In Program Year 1988, the 3 percent set-aside served about 50,000 older workers.

H.R. 2039 requires that SDA's (Service Delivery Areas) operating Job Training Partnership Act programs allocate 6 percent of their title II-A funds to programs for individuals 55 years of age over. Under H.R. 2039, the percentage of funds to the local service delivery areas will be increased from the current 78 percent to 84 percent. This is accomplished by reducing the State set-asides which are at the Governor's discretion. Because the majority of unspent funds in JTPA arise in programs funded through the State setasides, there has been administration support for the elimination or reduction of the setasides. This would affect thousands of older workers who are willing and able to work.

According to a General Accounting Office study done in January 1990 at the request of Senator DAVID PRYOR, chairman of the Special Committee on Aging, this underexpenditure of 3 percent set-aside funds has been attributed to a slow start in developing services for older workers. This resulted in large carryover balances, which, in turn, contributed to the underspending problem in later years. However, expenditures have increased since the start of the program. During transition year 1984, about 28 percent of the older workers set-aside funds were spent. In program year 1988, the expenditure rate increased to about 70 percent of total funds available. According to testimony given by the National Council on Aging before the Subcommittee on Employment Opportunities in September of 1989, the rate of spending and the rate of program effectiveness has accelerated to the extent that the 3 percent set-aside program is currently spending at the annual estimated rate of 134 percent.

The proposed 6 percent set-aside out of 84 percent of funds to local service delivery areas will mean approximately $55 million for older workers programs. That is 10 percent less money the current 3 percent. Supporters of this legislation, however, feel that even though this amount is less, it will provide a minimum national program base on which the States and the Service Delivery Areas can build as the workforce continues the universally projected aging process.

H.R. 2039 has many other provisions that will benefit older workers. These include a provision that will include older workers in the current "widow", under which 10 percent of enrollees may quality because they have significant employment barriers, such as disability or age discrimination, even through they are not low income. Another provision of note is that H.R. 2039 will include State agencies on aging in the same job training coordinating councils and make older worker organizations eligible to serve on local private industry councils. In addition, H.R. 2039 requires the coordination of reporting requirements with title V, the Senior Community Service Employment Program under the Older Americans Act.

The passage of H.R. 2039 signals the culmination of many months of hard work and negotiations on the part of the Members of both the House Education and Labor Committee and the Labor and Human Resources Committee in the other body. During that time period, I have been approached by representatives of many aging organizations, asking my support for a final product that would reflect the special needs of older workers. I believe that H.R. 2039 does just that, and I am happy to support it.

Mr. FORD of Michigan. Madam Chairman, I rise in opposition to the Bartlett amendment. It runs directly contrary to the goal of this legislation, which is to target resources in a way to maximize the return on the taxpayers investment.

For this program to have its maximum impact, it has to serve people who don't have the resources to get training or an education on their own.

Mr. BARTLETT wants to spend as much as a quarter of the title II-C funds without regard to the recipients' income. I have no objection to helping any young person get a better education, but when resources are desperately scarce it makes more sense to target funds on those who we can be certain will otherwise get no help.

Mr. BARTLETT says he is not trying to divert funds to the upper middle class; he wants to help kids who are poor but can't prove it. A better solution, it seems to me, would be to change the documentation required to prove poverty. To my knowledge, Mr. BARTLETT has never asked the Department of Labor to look into such a change.

Finally, other than the informal findings of two or three local programs, there has been no evidence presented to the committee to support the need for the Bartlett amendment. Neither the Secretary's very distinguished JTPA Review Committee, nor the GAO has recommended an expansion of the 10 percent window. I think it would be unwise to change a national program based on unscientific evidence from a tiny minority of service providers.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: at the end of the bill add the following:

SEC. . SENSE OF CONGRESS

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of grant or other Federal assistance under this Act should, in expending that assistance, purchase American-made equipment and products.

SEC. . NOTICE.

The Secretary of Labor shall provide procedures to inform such recipients of the Sense of the Congress under the above section.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be

considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this Monday we face shutting our Government down and laying off massive numbers of Federal workers. We have been, through our procurement policies, buying goods all over the world, and that is fine. My amendment simply states a sense-of-the-Congress resolution, since these are basically grants, that the Secretary shall give notice to any recipient of this grant, be it a nation, individual, group, or organization, that it is the intent of Congress to encourage all recipients to purchase American-made goods.

Specifically, the American worker is both the American consumer and the American taxpayer. If they are not working, they do not pay any taxes, and they certainly do not do much buying.

Madam Chairman, I think this is a reasonable approach. It at least lets the country know and reinforces the position that we encourage those recipients to purchase American-made goods and products. I think that is the least we can do. It is a moderate measure, and I appreciate the fact that it will be supported by the committee.

Mr. MARTINEZ. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MARTINEZ. Madam Chairman, the committee has examined the amendment and has no problem with it. We accept the amendment.

Mr. GOODLING. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Madam Chairman, we have examined the amendment. We have no problem. I am embarrassed that after 5 months, 535 Members of Congress are going to cause furloughs. If 535 Members cannot get on the ball and do something, we can protect those from outside influence in this country.

Madam Chairman, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. STUDDS) having assumed the chair, Ms. SLAUGHTER of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth and for other purposes, pursuant to House Resolution 478, she 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 any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 1, not voting 15, as follows:

[Roll No. 389]

YEAS—416

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Markey
Marlenee
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisk
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli

Towns	Walgren	Williams
Traficant	Walker	Wilson
Traxler	Walsh	Wise
Udall	Washington	Wolf
Unsoeld	Watkins	Wolpe
Upton	Waxman	Wyden
Valentine	Weber	Wylie
Vander Jagt	Weiss	Yates
Vento	Weldon	Yatron
Visclosky	Wheat	Young (AK)
Volkmer	Whittaker	Young (FL)
Vucanovich	Whitten	

NAYS—1

Crane

NOT VOTING—15

Conyers	McGrath	Rostenkowski
Ford (TN)	Montgomery	Rowland (CT)
Lantos	Parris	Schuette
Manton	Ray	Staggers
Martin (NY)	Robinson	Swift

□ 1258

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 2039, the Clerk be authorized to make corrections in section numbers, punctuation, citations, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

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

There was no objection.

□ 1300

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2039, the bill just passed.

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

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested.

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; and

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 57), "Joint resolution to establish a national policy on permanent papers."

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES ON SEPTEMBER 27, 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 479

Resolved, That it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 479 makes it in order for the Speaker to entertain motions to suspend the rules today, September 27, 1990.

Mr. Speaker, the purpose of the rule is to allow the House to consider today the 21 measures that had been scheduled to be on the Suspension Calendar this past Monday. The rule does not waive the requirement for ordering a second.

Mr. Speaker, this is a fair rule. It simply allows the House to take up those measures that had been scheduled for consideration earlier in the week. I urge adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I shall not ask Members to oppose this one sentence rule that we have here. It would have been my preference to proceed with much more substantive legislation on this floor, like the missing crime bill, with full debate on the Hyde amendment and the Wylie amendment. But since that determination has been made by the Speaker, I shall not object to proceeding with the rule so that the House can at least take care of some legislative business today.

Mr. Speaker, I would note that the rule before us permits Members to demand a second on each suspension. Mr. Speaker, we have been assured that only those suspensions, 21 of them or so that were left over from earlier in the week that are already on this list, which we did not get to the other day, will be brought up here today. So I will not oppose the rule, and I hope the process can go forward.

However, I would ask the chairman of the Committee on Rules if he might just engage in a little colloquy. I have had a lot of requests from Members on both sides of the aisle who want to know when we may possibly take up the crime bill on the floor of this House. There were, if I may call it to the attention of the chairman, 80 good Democrats who voted to kill that rule so that we could bring the bill back here with the Hyde amendment on habeas corpus and the Wylie amendment, that will go after those S&L thieves, being made in order. We are prepared to take up that bill now. If the good chairman would, and I have a great deal of respect for the gentleman, just enlighten Members, where is that bill?

Mr. MOAKLEY. If the gentleman will yield, it is my understanding that it will be before the Committee on Rules earlier next week. It is my understanding it will be before our committee, the Committee on Rules, earlier next week for action.

Mr. SOLOMON. Early next week?

Mr. MOAKLEY. Right. We will expect to have it on the floor next week.

Mr. SOLOMON. Has the gentleman had any indication from their leadership what will happen to the Hyde habeas corpus amendment, or the Wylie amendment?

Mr. MOAKLEY. I have not seen the content of the bill at all up to this time.

Mr. SOLOMON. Will the gentleman just answer one more question while he is on his feet. What about the CR, on which we have a rule pending?

Mr. MOAKLEY As the gentleman knows, we reported the CR out, and it is up to the Speaker to schedule it. We have done our job on the Committee on Rules, and now it is up to the Speaker to schedule it. I do not know when that will be scheduled. It is my understanding, it is hoped we would have it Sunday at the latest.

Mr. SOLOMON. Sunday at the latest?

Mr. MOAKLEY. Yes.

Mr. SOLOMON. I thank the gentleman for his time.

Mr. MOAKLEY. I am giving the gentleman all the information I have at the present time.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is an interesting rule to have before the body, to create a new suspension day and thereby give Members an opportunity to act upon about 21 pieces of legislation. My only concern is that it does put the House in the posture of appearing somewhat unsympathetic to the crisis that this Nation faces, both

in terms of the economics of the country, and also with the crime that is sweeping every metropolitan area in the United States.

With regard to the first, while we spend time here today doing 21 suspension bills, the fact is that we are delaying the time that we have to get to the continuing resolution. I am concerned about what the gentleman from Massachusetts just told the House. We could be as late as Sunday getting to the continuing resolution. If we wait until Sunday to get to the continuing resolution, and it is in the kind of form that it is in right now, the fact is that the President of the United States will be up against a deadline of a possible sequester, and all kinds of ramifications for this country as the result of the congressional inaction. That is a very, very bad way to do our business.

Once again, it shows how high the level of incompetence has risen in the House of Representatives when we cannot get our work done, and penalize the country as a result of our inability to do our work.

The question that I would also have is the one that the gentleman from New York asks, and that is why we are, today, proceeding with this kind of a rule when what we ought to have is the rule that the House demanded on the crime bill. The House made very clear what it wants in a crime bill. The only debate is over the Hyde amendment and the Wylie amendment.

There is no doubt in my view that if we brought a rule back down here that was similar to the one we had the other day, and added the Hyde and Wylie amendments to it, it would pass this House by an overwhelming margin. That is known to the Committee on Rules. It is known to the leadership. Yet, we are faced with a situation where we are not proceeding with that kind of rule and proceeding with the crime bill, but rather are doing 21 suspensions, some of which may have merit, but many of which certainly are not dire emergencies for the country, the way the crime bill is a dire emergency, and the way the budget is a dire emergency.

I would ask the gentleman from New York, was the idea of bringing up the crime business discussed at all at the Committee on Rules when they were meeting yesterday and proceeding with the rule?

Mr. SOLOMON. If the gentleman will yield, I discussed it with the chairman, and the chairman said it was under consideration, that there were those who were requesting to have it sent back to the Committee on the Judiciary where it possibly would never see the light of day again. There were others on that side of the aisle, legitimately so, pushing to have the bill brought before the House, because they know that the real issue is capital punishment. The whole issue is drugs, crime, and capital punishment.

We saw what happened out in California on television today, where a killer is holding hostages, has already killed one person, eight others are injured. And yet this Congress is pictured as being soft on crime and against capital punishment, when the truth is that the vast majority of the Members on both sides of this House are for capital punishment for killers who would kill American citizens.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his explanation, and I am very disappointed that we do not have a rule back out here to deal with the crime bill. I am encouraged by the fact that the gentleman from Massachusetts tells Members that the crime bill will be up next week, and I certainly hope that that schedule will be met. We have certainly seen a pattern in recent days of schedules being formed, and them being retracted, and then being reformed, and then being retracted again. I hope that that schedule holds up, that early next week we will have the crime bill before Members. It is getting very late in the session to get everything worked out, and put a crime bill and a bill to do something about drug dealers on the President's desk.

□ 1310

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

Mr. WALKER. I am glad to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Speaker, I echo that, having been the vice chairman of the Crime Subcommittee and having been out here on the floor expecting to get that bill right back after the rule was defeated on the floor the other day. I am encouraged that the chairman of the Rules Committee says that we are going to see that bill maybe next week, or at least his committee is, but we are talking about having gone through 2 or 3 days when we easily could have been on the floor doing this bill, a bill that would have restored and would if we passed it restore the death penalty for Federal crimes, a bill that would have given a change in the rules of evidence to allow more contraband in and get more convictions in drug convictions that law enforcement has been asking us for, a bill that would allow the death penalty for drug kingpins who traffic in very large quantities of narcotics, and hopefully with the Hyde amendment a bill that would have allowed us the opportunity to put an end to these appeals that have been going on forever from people who get death sentences sitting on death row.

In addition, if we get the Wylie amendment, we would have an opportunity to breach the bankruptcy laws of these States and allow the Federal Government to be able to get at the profits and assets of the big S&L crooks who have palatial mansions out there.

I think these are extremely important and I think the gentleman's point is well made.

I am, too, very disappointed that we are spending this time on 19 or so bills today under suspension, that while I would not say they are not important, they do not rise to the importance of getting this crime bill out, especially considering we will have to go to conference with the Senate on the crime bill, and time left in this session is so short. Every time we put it off, it makes you wonder whether somebody really wants to delay this thing so that we do not have a tough crime bill this year.

Mr. WALKER. Well, I certainly agree with the gentleman. He will recall that we started talking about the need for the crime bill back at the beginning of the summer, and suggested that that was the time to move it.

Here we are late in the session. We still are not there because of the kind of rule that the leadership brought forward because of some of its fatal flaws.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. SOLOMON. Mr. Speaker, I yield another 2 minutes to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this additional time.

I just wanted to say because of some of the fatal flaws that are in the bill itself, the gentleman from New York has made reference to the fact that there was an attempt to undermine the ability to use capital punishment as one of the options for a jury in the case of heinous crimes.

We think there are reasons to at least have the House vote on those matters, and hopefully to move a tough crime bill. I am disappointed we are not doing it today.

I would hope that at some point in the very near future that we are going to see that action and see it quickly, and I certainly want to thank the gentleman from New York for yielding me this time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Speaker, to my distinguished friends, if you wanted a crime bill we would have had one a couple days ago if you had not beat the rule.

I do not like any allegations that there are not plenty of death penalties there. We have death penalties for nearly everything you can think of, almost. I just do not want to be stand-

ing here and have you all say that we did not have a crime bill. We worked 30 days on the bill, in days of hearings in all the subcommittees. The bill is a comprehensive bill. It is a good bill and you will vote for it when it finally gets to the floor. We are going to consider it and you will be for it. You will like it. It is almost mean enough to suit you.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, before I yield to the gentleman, I would just say this to my good friend, the gentleman from Texas [Mr. BROOKS], a former marine, one of the people I deeply admire and respect in this House: Let me just read a little letter to my good friend over there from the National District Attorneys Association. I just happen to have it in my pocket, left over from the debate of the other day. It says:

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, September 25, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The National District Attorneys Association strongly opposes the Butler/Derrick substitute amendment to Title XIII of H.R. 5269. This particular amendment does nothing to cure the major flaws in Title XIII of H.R. 5269 to which the NDAA vigorously objected in a recent letter sent to you.

The Derrick substitute amendment does not address the abuse of habeas corpus, that has virtually nullified the death penalty laws of the states. Rather, it grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice.

Several procedural rules relative to collateral review which have been established by certain decisions of the U.S. Supreme Court would be legislatively overruled if this amendment is passed. This would dramatically increase the opportunity for delay, abuse and repetitive litigation in habeas corpus proceedings.

The nation's prosecutors will be hampered in their efforts to uphold and enforce the law if H.R. 5269 is enacted with or without the Butler/Derrick substitute amendment.

Yours very truly,

RICHARD P. IEYOUB,
President.

Mr. Speaker, this speaks for itself. It comes from all the district attorneys across this Nation, experts in the field.

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

Mr. SOLOMON. I am glad to yield to my good friend, the gentleman from Texas.

Mr. BROOKS. Experts in the field differ, they really do, Mr. Speaker.

I must say, I do not want to get into this argument. We will handle that later.

But really, did you ever see the ax man with his black hood on that did not want to chop heads off? You have to think about that. They just do not discuss whether they should or they should not between the time they pick up the ax and let it fall on that neck. It just does not occur to them.

We can go into all the ramifications of that. I am fully prepared to discuss habeas at great length and look forward to it, but this is not really the time to do it for the House. I would hope that we could go on with the rule.

Mr. SOLOMON. Mr. Speaker, if I might just reclaim my time, I would just say this to the gentleman from Texas. I do not know how they pick district attorneys in Texas. I know how we pick them in New York State. They are the cream of the crop. They are citizens of the community and they are not out there to chop anybody's head off. They are there to see that justice is carried out.

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

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

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

I am sure the chairman of the Judiciary Committee is speaking from the standpoint of this caucus when he says that he has a tough crime bill, but one of our concerns was that, for instance, in that bill that someone who blew up an airplane that contained 300 people would not be eligible for the death penalty. That would not be an option allowed to the jury under Federal law in the bill that he brought forward to us. We regard that as maybe being not quite tough enough.

There are concerns that we have that the business of applying racial quotas to a death penalty consideration that is in the gentleman's bill. There are many people who feel that racial quota portion will, in fact, negate the ability of juries to deal meaningfully with death penalty decisions. So there are a number of provisions in that bill which very definitely weaken the bill, and we think probably it was a crime bill much too weak for any kind of hope that we would bring up.

I simply would say that we have to have a rule on the House floor that allows us to get real votes on some of these meaningful issues.

POINT OF ORDER

Mr. HAYES of Illinois. Mr. Speaker, a point of order.

The SPEAKER pro tempore (Mr. BRUCE). The gentleman will state his point of order.

Mr. HAYES of Illinois. Mr. Speaker, I thought that we were discussing the rule on the suspensions. Now we have got into discussing the content of the crime bill. I think it is completely out of order.

The SPEAKER pro tempore. The gentleman is correct. The debate should proceed on the matter before the House, and that is the rule proposed by the gentleman from Massachusetts on the suspensions.

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I want to focus on this rule. The problem with this rule is that it brings up 19 suspensions today. Now, there is not one person in this Congress who does not understand that suspensions tend to be noncontroversial bills that are not subject to amendments and that have to pass by a two-thirds vote.

Now, we are going to bring all these up today, but listening to this discussion we have just had, we know full well that the crime bill is controversial and we know it is complex.

The Senate has passed a crime bill. Are we going to get a bill passed in this House and sent to the Senate so we can have a conference committee and we can have a conference report on crime that can be dealt with yet this session, or are we going to say we passed a crime bill, the Senate passed a crime bill, and, oh, guess what, we did not have time to go to conference. We were not really serious about it.

This rule is relevant to crime because every one of these 19 suspensions should be up next Tuesday, and today we should be debating the crime bill so we can get to conference and get something passed before the end of the session.

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

Mr. GUNDERSON. I am happy to yield to the gentleman from Florida.

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

I totally agree with the gentleman. The issue is this rule. The issue is on the question of the consideration of all these suspensions today, instead of considering the crime bill, instead of considering something that could have been out here much earlier than it is apparently going to be, not the substance of the work of the gentleman from Texas.

POINT OF ORDER

Mr. WASHINGTON. Mr. Speaker, a point of order.

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

Mr. WASHINGTON. Mr. Speaker, I raise a point of order that the gentleman is not discussing the matter up for discussion on the floor.

The SPEAKER pro tempore. The Chair will advise the Members, that in the Chair's opinion discussing the priority of business is probably within the confines of the resolution called up by the gentleman from Massachusetts, but when debate ranges into the merits of the relative bills not yet before the House, the Chair would admonish the Members that that probably goes beyond the resolution of-

fered by the gentleman from Massachusetts.

Mr. SOLOMON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Wisconsin has the time.

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

PARLIAMENTARY INQUIRIES

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, if I might just propose an inquiry, I want to question the Speaker's last statement, just for clarification.

This rule that we are considering right now is a one-sentence rule. Let me again read it to the Chair. It says:

Resolved, That it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990.

□ 1320

This is what we are debating right now. Whether or not we are going to suspend the rules which allows for these innocuous bills to be debated or whether we shall take up substantive legislation.

I would ask the Speaker if he would discuss that with the Parliamentarian because we intend to make a point that this kind of legislation should not be on this floor right now.

You know, the President of the United States of American is going to veto the defense authorization bill. We need to clean our calendar so we can take up those terribly important issues so that we can deal with Desert Shield and other issues coming next week when we are rushing to get out of here.

I yield to the gentleman from Texas——

The SPEAKER pro tempore (Mr. BRUCE). If the gentleman would suspend, the Chair has ruled that it is certainly within the debate rules of this House to debate whether or not this rule ought to be adopted or another procedure ought to be adopted by the House.

The Chair's admonition to the Members is that when the House gets into the content of the legislation not before the House for example, the crime bill, debate has probably gone beyond the resolution offered by the gentleman from Massachusetts.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, since we are suspending all of the rules of the House at the Speaker's discretion under this bill, is it not appropriate to discuss matters that the Speaker might decide to suspend the rules on this day? That is what the rule before us says. And I think our discussion here indicates that we think there are some matters that are not about to come to the House that could. And the crime bill is one of those.

Is the Speaker ruling that we cannot discuss matters that might come before the House under this rule?

The SPEAKER pro tempore. The Chair has ruled that it is certainly within the province of this body to debate the content of the rule before the House. The Chair's admonition to the body is that once the House gets into debating the content of the legislation that might be brought before the House, the Chair would admonish Members they have gone beyond the confines of the motion made by the gentleman from Massachusetts.

This rule has not been adopted, the rules have not been suspended. That is the matter before the House.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. That is exactly the point of the gentleman from New York and myself, that in discussing suspending all of the rules of the House at the Speaker's whim for the rest of this day, it seems to us there are matters of content involved. Is the Chair suggesting we cannot discuss matters of content of things that might be suspended under the rules?

The SPEAKER pro tempore. The Chair would admonish the Members that they are not allowed to discuss the merits of matters not pending before the House where that point of order is made. The pending business before the House is the resolution offered by the gentleman from Massachusetts, to adopt the rule reported by the Committee on Rules.

That is what is before the House.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. I thank the Chair. That is our impression of what we were discussing. We are giving the Speaker the broadest powers that this House can possibly grant to the Speaker, to suspend virtually all of the rules that we have adopted and bring matters to the attention of the House.

In discussing matters that are on our calendar and therefore could be put on this calendar, we are in fact discussing a matter before the House. And I am somewhat surprised by the suspending of a point of order that suggested that that was out of order to do.

The SPEAKER pro tempore. The Chair would remind the Members that the matter before the House is the resolution offered by the gentleman from Massachusetts.

The rules have not been suspended. We are operating under the current rules of the House.

The gentleman from Texas is recognized.

Mr. WASHINGTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WASHINGTON. Mr. Speaker, is the crime bill eligible for consideration? Has a rule been reported from the Committee on Rules that would make it eligible for consideration after dispensation of these matters now pending?

The SPEAKER pro tempore. The only pending matter before the House is the resolution called up by the gentleman from Massachusetts.

Mr. WASHINGTON. Mr. Speaker, would the Chair recognize an amendment to suspend all rules in order that the crime bill may be brought up today?

The SPEAKER pro tempore. Not without the leadership's direction.

Mr. WASHINGTON. All right. In that event, I have one further parliamentary inquiry: How could it be possible to debate the merits of whether a bill, which is not eligible for consideration and for which he would not recognize one to suspend the rules, be germane to the discussion of the matter pending on the floor right now?

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

Mr. WASHINGTON. The Chair has not answered mine yet?

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state it.

Mr. WALKER. Mr. Speaker, the fact is that if this rule is adopted, the Speaker would have the right under this rule during the course of the day today to entertain a motion to bring the crime bill to the floor, is that not correct?

The SPEAKER pro tempore. If the Chair may have the attention of the membership, the matter before the House, the Chair would say to the gentleman from Pennsylvania [Mr. WALKER], is the question of whether to adopt that rule. The Chair has no knowledge of what may occur after that, and the only matter before the House is the resolution called up by the gentleman from Massachusetts.

Mr. WALKER. As a further parliamentary inquiry, the Chair did not answer my specific question.

My specific question was: If this rule is adopted can the Chair entertain a motion to bring the crime bill to the floor under this rule?

The SPEAKER pro tempore. If the rule were adopted, the Chair would be happy to entertain such a parliamentary inquiry after the rule is adopted, and that would be up to the presiding officer at that time.

Mr. MOAKLEY. Mr. Speaker I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. I thank the gentleman for yielding.

Mr. Speaker, I resent the minority party considering the bills coming before us on suspension today as immaterial, noncontroversial, nonimportant bills. We have bills today that create new judgeships to fight the war on crime and drugs.

We also have a Radiation Exposure Compensation Act for thousands of victims of cancer that are dying because of exposure to radiation during atomic testing in the 1950's.

These people have been waiting for years and years and years to have compensation. This was taken off calendar earlier in the week because of parliamentary maneuvers. These are important bills.

While we are here fighting this out day by day to help our constitutents, people in Utah, Nevada, Arizona, and Colorado, the President of the United States is running around the country raising money for Republican candidates.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consumer to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for his nice little speech about the President of the United States traveling. I hope that the next time that we cancel the business of the Congress in order to have a celebrity golf tournament, we also will have the gentleman on the floor making the similar speech.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

I will not need all the time.

I simply want to say that my friend from Pennsylvania [Mr. WALKER] alleged a moment ago that the House is incompetent. He has been talking about his desire to have the House begin its work and work its will and do its business.

However, I would observe, as every other Member on the floor would, I think, that we have traipsed over here for record vote, after record vote, after record vote, day after day, because my friend from Pennsylvania and others have demanded record votes on seconds and dozens of parliamentary procedures. They have done so in a way that effectively thwarts the will of the House and that prevent us from doing our business.

Vote after vote after vote, you and your friends have attempted to thwart the work of the House. It is a little disingenuous, I think, for you to suggest somehow this institution is incompetent. We have not been able to do the work that we should have done in the last few days. Because of all of those nonsensical procedural votes which you demanded.

Mr. SOLOMON. Mr. Speaker, before I yield to another speaker, let me just say that the gentleman from Nevada stated that these bills on the Suspension Calendar are not innocuous, not unimportant. He said they were controversial. If I might just propose this to the Speaker: It is my understanding that controversial bills are never to appear on the Suspension Calendar. I thought that was the rules of the House.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding. Mr. Speaker, I do rise to address the rule before the House and would make two points.

First, the proposed rule, the resolution before us, is without limitation. That is to say it would make it in order for the Speaker to entertain motions to suspend the rules on this day without any limitation as to the suspensions that have previously been announced and on the list. I think it would be important to have an understanding that only the 19 suspensions that have been published would be considered under suspension today.

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

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding.

Mr. Speaker, although the rule does not say it, there has been an agreement that the suspensions will be only on the matters on this list today.

Mr. BARTLETT. I thank the gentleman for his clarification.

The second point as to the merits of passing this rule or not, I would note of the suspensions that are listed today they are neither essential nor in many cases do they achieve substantial progress for the United States of America and in all cases none are in the same league of importance as the other legislation that the House could and should be discussing and debating at the end of the session.

□ 1330

Some names, the titles of some bills, were cited a moment ago. I would cite the titles of other bills which seem to be substantially less essential or less important to the United States, such as: conveying lands to the Rouge Community College District, or the preservation of Arcadian culture, or the national policy to rebuild—a sense-of-Congress for a national policy to rebuild infrastructure, or the National Environmental Education Act, or the Capitol Police Retirement Act.

It does seem to many of us that the House needs to get on with the business at hand and not with the business of these 21 suspensions which are substantially less than essential to the progress of America.

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

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, if we follow the logic of the gentleman from Texas [Mr. BARTLETT], my friend, to its logical conclusion, then we should start with the most important bill pending before the Congress and never consider any other bill until it is disposed of, take them in sequential, regular order until they are disposed of; is that correct?

Mr. BARTLETT. Mr. Speaker, will the gentleman yield 1 minute so that I can respond to the gentleman from Texas [Mr. WASHINGTON]?

Mr. SOLOMON. I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding.

Actually I am referring to the end of the session that we are in now.

Mr. WASHINGTON. I see.

Mr. BARTLETT. We were otherwise scheduled to target adjournment on next Monday. We have failed to complete most of the major business of the House, including civil rights, the Clean Air Act, and other items, and it does not seem to me that in the last few days of the session that now is the time to be taking up legislation that takes up time from much more important legislation.

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

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. WASHINGTON. The bill that the gentleman and I just had some involvement in, JTPA, is not as important as some of the bills that we have not taken up; is that correct?

Mr. BARTLETT. The gentleman from Texas [Mr. WASHINGTON] is correct.

Mr. WASHINGTON. I thank the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. However, Mr. Speaker, it was a bill that will dramatically impact and improve the lives of large numbers of persons, unlike many of the bills on the Suspension Calendar.

Mr. WASHINGTON. Mr. Speaker, as always, beauty is in the eyes of the beholder; is it not?

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Texas [Mr. WASHINGTON] for his understanding.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL], a gentleman we are going to miss dearly around here. We are going to miss his intelligent

vote, and we are going to miss him personally.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from New York for yielding time to me. I did not recognize myself from the introduction, and I was unready.

. Mr. Speaker, I rise in opposition to House Resolution 479. We have been talking here this morning, this afternoon, about what the Congress should do, and whether the Congress is doing its job, and whether the Congress is competent or not. I suspect the public would like to answer that last question after seeing us fiddling for 5 months in trying to get a budget agreement. But I think that most Members, if given the secret ballot on the opinion, would concur that many of the suspensions which were scheduled for earlier in the week and were not able to be completed are not matters of enormous importance immediately. If I go through a list, I can find a few reelection bills, I can find a few House bills that are never going to be heard in the Senate, I can find some bills that are pretty trivial, and, yes, there may be an important bill or two. Those can be handled under the original rules, if they assume that importance.

One of the Members suggested that, if we only did the most important things, we would never get anything else done. That was probably an appropriate comment 5 or 6 months ago, but we are now down to the time when we ought to be thinking about adjournment. We have not completed our budget resolution, we have not completed our deficit reduction agreement. Everything else should be set aside except matters of the highest import, such as the crime bill and the need to deal with the problems in the Persian Gulf, items of that ilk.

However, Mr. Speaker, I think that people watching us would be swift to conclude that the Congress in incompetent, having floundered on its inability to come to a conclusion on the budget agreement. I do not see how Americans can draw any other conclusion, and we are trivializing the process by going back to the time-wasting device of dealing with a few Members' bills so they will feel a little bit better about the process.

The people are not fooled. The Congress is incompetent and is a failure until it reaches its budget agreement. It ought to be working on it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding.

It is interesting that they only pick out one side to be incompetent; is it not? Yet John Sununu sits over there and says, "No, no," to every proposal. It seems only right, I think, that a lot of us understand also that the gentleman from Minnesota [Mr. FRENZEL] refers to the American people making decisions about what is going on, and yet he talks about, "It's getting time for adjournment; we better get out of here."

Mr. Speaker, I want to tell my Republican friends on that side of the aisle that most Americans work all year round, and so the gentleman from Minnesota [Mr. FRENZEL] would worry about when we get out of here a lot less if he starts worrying about getting his job done. We do not have to rush. We can work up until the Christmas vacation, like everybody else in America does.

So, let us not worry about adjournment so quickly. I think it is high time that the people, the Republicans on that side of the aisle, quit worrying about the adjournment issue and start worrying about whether or not we can deal with the problems of America.

I think it is time we also start talking about a budget agreement, and that is a very important, a very difficult, thing to do.

POINTS OF ORDER

Mr. SOLOMON. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. BRUCE). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, I do not like to interrupt the gentleman from Texas [Mr. COLEMAN], my good friend, but I would just like to admonish the Chair a little bit about his previous ruling.

Mr. Speaker, is the gentleman from Texas [Mr. COLEMAN] speaking on this rule?

The SPEAKER pro tempore. Within the general confines, the Chair has allowed the membership to speak relatively widely on the topic of the matters before the House.

The Chair would remind the Members again that the matter before the House is the resolution offered by the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. COLEMAN of Texas. That is right, and this rule permits us to consider a number of pieces of legislation that may prevent us from adjourning as early as the gentleman from Minnesota [Mr. FRENZEL] would like.

Mr. Speaker, the truth of the matter is that that is what this Congress ought to be about, and let us, after all, ask the President of the United States to come on back to Washington, where he says the problem is, instead of being out there with those $25,000 a plate fundraising dinners for a bunch of Republicans.

Mr. SOLOMON. Mr. Speaker, I think the point has been well made that we really ought to be taking up serious legislation which is legitimately before this House, like the continuing resolution, the pocket veto, the assault gun bill, and others, but the point has been made.

Mr. Speaker, I want to urge all Members to vote for this rule unanimously.

Mr. Speaker, I yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH], our illustrious whip.

Mr. GINGRICH. Mr. Speaker, I have a point of order.

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

Mr. GINGRICH. Mr. Speaker, I am not going to use up all 7½ minutes, but I am going to inquire a little bit here.

Mr. Speaker, I do not understand the ground rules that are apparently being set here on what is debatable and what is not. So, maybe the Chair could explain for a second. Under this rule, what is debatable? Is there a limitation here, I would ask the Chair?

The SPEAKER pro tempore. The debate in the House is limited to the matter before the House. The Chair will cite the House rules and manual, section 752:

> It has always been held, and generally quite strictly, that in the House a Member must confine himself to the subject under debate. "For example, "On a motion to amend the debate is confined to the amendment and may not include the general merits of the bill.

Mr. GINGRICH. So, I have two questions then.

First of all, I just happen to hear on C-SPAN, in the context of this, a Democratic Member discussing the President of the United States being at fundraising dinners. Now did the Chair gavel that Member down, or was that within the rules, or what? What relevance does that have to this rule?

The SPEAKER pro tempore. When a point of order was made, the Chair admonished Members that the matter before the House was a resolution called up by the gentleman from Massachusetts [Mr. MOAKLEY] and that Members should confine their comments to that resolution.

Mr. GINGRICH. So did the Democratic Member then, having carefully listened to the Chair, as I am sure he did, he was talking about the President of the United States being at fund-raising dinners, and was that within the context of that admonition? Does that in any way fit? Is there anything in this rule that relates to that?

The SPEAKER pro tempore. That may have come before the admonition of the Chair.

Mr. GINGRICH. No, it came after the admonition. That is why I came up here. I was so astonished to see that a member of the Democratic Party had failed to understand the Chair.

Now let me just ask: "*Resolved*, that it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990," a

rule, by the way, which I am going to vote for, which I would agree with the gentleman from Illinois [Mr. MICHEL] we should be making in order.

Would this allow the Speaker, if he wanted to, to bring up the crime bill?

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

Mr. GINGRICH. I yield to the gentleman from Massachusetts, the distinguished chairman.

Mr. MOAKLEY. Mr. Speaker, before we came to the floor, we agreed that the rules does not state it, but by agreement the Speaker was only going to bring up the suspensions that appeared on the sheet of paper, and the crime bill was not one of them.

□ 1340

Mr. GINGRICH. Fair enough, then. On the list that is on the sheet of paper, is there a single bill, I would ask the distinguished chairman of the committee, not to put him on the spot because he may not wish to answer—this may be rhetorical, but if he wishes to answer, he may—is there a single bill on suspension that is mutually agreed to or on a piece of paper as agreed to which relates to the President of the United States traveling?

Mr. Speaker, I would be pleased to yield to the gentleman if he cares to comment.

Mr. MOAKLEY. I have not seen it.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, the President happens to be in Cleveland, OH, in my district today on a fundraiser. Do you deny that? This is not a big deal. This is America. Can we not speak from the floor?

Mr. GINGRICH. I thought we could, but the Chair seemed to wish to restrict what we speak about.

Ms. OAKAR. But I mean he happens to be there. I am not saying that he should be there or he should not be there. The fact is he is in downtown Cleveland. I happen to represent that district. He is at a huge fundraiser.

What is the big deal? Are we not allowed to speak on the floor so that the American people will know what the problems are in this country?

Mr. GINGRICH. I say to my friend from Ohio——

Ms. OAKAR. And you are my friend.

Mr. GINGRICH. And in fact you are my aunt's Representative.

You and I are in entire agreement, and I would think the Chair for the rest of the day would want to accept the fact that in a free country people often talk very widely about a wide range of issues.

Ms. OAKAR. That is right. We do that all the time.

Mr. GINGRICH. And all I wanted to make the point about was that if the Chair is to admonish the Republican side because it might interpret broadly the topic under discussion, then certainly our friends on the Democratic side would want either to find some kind of self-censorship or to relax and let America be America. This is a country where the people have a wide range of subject matters on which they express themselves.

Ms. OAKAR. Mr. Speaker, will the gentleman yield further?

Mr. GINGRICH. I am glad to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I think the gentleman from New York made a very important point when he said, "Look, we're talking about the rule. Let's get out and vote for the rule."

Honestly and truly, there are important suspensions. They may not be important to some people, but you and I have worked on some. My friend, the gentleman from Kansas [Mr. ROBERTS], on the gentleman's side of the aisle, has worked on having equity for the Capitol Police. I do not think that is a minor thing. That is one of the suspensions. I think we want to vote on those kinds of things, and I think you would want fairness to all the police who are here, including the minorities.

Mr. GINGRICH. Yes, I do. Let me just say before I yield to the gentleman from Texas that I think it is good to bring these suspensions up, and as I said, the gentleman from Illinois [Mr. MICHEL] and I discussed it earlier, and I was in full agreement with his understanding with the Speaker, and I am going to urge every Republican to vote yes on this rule.

I think most of the suspensions will pass. Maybe all of them will pass, perhaps with a little bit of time taken out for other things. But we also think that freedom of debate and freedom of speech are not only important when burning the flag, which is the case that was made here, but they are even important on the floor of the House.

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

Mr. GINGRICH. I am glad to yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, I would like to apologize on behalf of my colleague and me from Texas. We are a little backward down in Texas, and sometimes we are a little slow in understanding. We did hear the Speaker's ruling, and we thought it was germane to the quesiton of Federal judgeships, because generally the people who give $25,000 contributions are those who become Republican Federal judges.

Mr. GINGRICH. Oh, you know about Mr. Souter, for example—let me just say this to the gentleman——

Mr. WASHINGTON. I mean not Supreme Court judges. We thought the President was out looking for Federal district judges in Ohio, and that is one of the bills on the calendar.

Mr. GINGRICH. I know that information does not always penetrate all the parts of Texas.

Mr. WASHINGTON. Oh, we are slow.

Mr. GINGRICH. Let me say this to the gentleman—I am not in any way going to suggest that to the gentleman because I know full well he is very fast.

Mr. WASHINGTON. No, sir, I am just trying to learn.

Mr. GINGRICH. If you look at the most recent Supreme Court appointee, my sense is that he is sufficiently frugal, that if contributions were a function of his nomination, he would have indeed been very far down on the list. Apparently in the case of the gentleman from New Hampshire, the President chose a Supreme Court nominee whose primary virtue is that he is intelligent, informed, and experienced, and that transcended any immediate party activity.

Mr. Speaker, let me just say in closing that I hope all the Members vote for this rule, and I hope for the rest of the day the Chair, in the spirit of good humor, will tolerate a certain level of freedom of speech to reflect the nature of the House at its best.

The SPEAKER pro tempore (Mr. BRUCE). The Chair would like to indicate that in the opinion of the Chair, the Chair has in fact allowed a large amount of debate. It has gone far beyond the confines of the resolution called up by the gentleman from Massachusetts, and at every opportunity where the question has been raised by a Member, the Chair has tried to keep the House on the matter before the House, and at no time has the Chair recommended or attempted to cut off debate.

Mr. MOAKLEY. Mr. Speaker, would the Chair inform both sides as to how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 22 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 1 minute remaining.

LEGISLATIVE PROGRAM

Mr. SOLOMON. Mr. Speaker, if the gentleman has no further speakers, before I yield back the balance of my time, may I ask this of the Chair:

We have had some inquiries about how the suspension votes will take place. Are they going to be postponed and stacked at the end, or what is the intention of the Speaker?

Mr. MOAKLEY. Mr. Speaker, I do not know. Let me suggest that the gentleman direct that question to the gentleman from Maryland [Mr. HOYER].

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

It is our intention to group these votes and try to have them at approximately 5 o'clock.

Mr. SOLOMON. So we would group them at the end and have 5-minute votes at the end of the suspensions?

Mr. HOYER. On those on which votes are requested. Hopefully that will take place at approximately 5 o'clock.

Mr. SOLOMON. Mr. Speaker, I think that is fair of the gentleman. We would appreciate that.

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

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules.

FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5640) to amend title 28, United States Code, to provide Federal debt collection civil procedures, as amended.

The Clerk read as follows:

H.R. 5640

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

SECTION 1. This Act may be cited as the "Federal Debt Collection Procedures Act of 1990".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and general provisions 3001
"B. Prejudgment remedies 3101
"C. Postjudgments remedies 3201
"D. Fraudulent transfers 3301

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Applicability of chapter.
"3002. Definitions.
"3003. Rules of construction.
"3004. Service of process.
"3005. Applicability of statutes of limitations to actions under this chapter.
"3006. Affidavit requirements.
"3007. Perishable personal property.
"3008. Proceedings before United States magistrates.
"3009. United States marshals' authority to designate keeper.
"3010. Co-owned property.
"3011. Assessment of surcharge on a debt.
"3012. Joinder of additional defendant.
"3013. Modification or protective order; supervision of enforcement.
"3014. Exempt property.

"§ 3001. Applicability of chapter

"(a) IN GENERAL.—Except as provided in subsection (b), the chapter provides the exclusive civil procedures for the United States—

"(1) to recover a debt; or

"(2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim.

"(b) LIMITATION.—To the extent that another Federal law specifies procedures for recovering on a claim or a judgment for a debt arising under such law, those procedures shall apply to such claim or judgment to the extent those procedures are inconsistent with this chapter.

"§ 3002. Definitions

"As used in this chapter:

"(1) 'Counsel for the United States' means—

"(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

"(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

"(2) 'Court' means any court created by the Congress of the United States, excluding the United States Tax Court.

"(3) 'Debt' means—

"(A) an amount owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

"(B) an amount originally due the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, or recovery of a cost incurred by the United States;

and includes any amount due the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011.

"(4) 'Debtor' means a person who is liable for a debt or against whom there is a claim for a debt.

"(5) 'Disposable earnings' means that part of earnings remaining after all deductions required by law have been withheld.

"(6) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(7) 'Garnishee' means a person—

"(A) who employs a debtor;

"(B) who has, or is reasonably thought to have, possession, custody or control of earnings, whether due or yet to become due, of a debtor; and

"(C) against whom a garnishment is issued by a court.

"(8) 'Judgment' means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

"(9) 'Nonexempt disposable earnings' means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

"(10) 'Person' includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a local government or an Indian tribe.

"(11) 'Prejudgment remedy' means the remedy of attachment, receivership, or both authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

"(12) 'Property' includes any present or future interest, whether legal or equitable, in real, personal (including choses in action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

"(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

"(B) Indian lands subject to restrictions against alienation imposed by the United States.

"(13) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

"(14) 'United States' means—

"(A) a Federal corporation;

"(B) an agency, department, commission, board, or other entity of the United States; or

"(C) an instrumentality of the United States.

"(15) 'United States marshal' means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

"§ 3003. Rules of construction

"(a) TERMS.—For purposes of this chapter—

"(1) the terms 'includes' and 'including' are not limiting;

"(2) the term 'or' is not exclusive; and

"(3) the singular includes the plural.

"(b) EFFECT ON RIGHTS OF THE UNITED STATES.—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law—

"(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

"(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; or

"(3) to appoint or seek the appointment of a receiver.

"(c) EFFECT ON OTHER LAWS.—This chapter shall not be construed to supersede or modify the operation of—

"(1) title 11;

"(2) admiralty law;

"(3) section 3713 of title 31;

"(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

"(5) a statute of limitation applicable to a criminal proceeding;

"(6) the common law or statutory rights to set-off or recoupment;

"(7) any Federal law authorizing injunctive relief;

"(8) any law specifically applicable to a security agreement, as defined in section 101(44) of title 11; or

"(9) the authority of a court—

"(A) to impose sanctions under the Federal Rules of Civil Procedure; or

"(B) to exercise the power of contempt under any Federal law.

"(d) PREEMPTION.—This chapter shall preempt State law to the extent such law is inconsistent with the operation of this chapter.

"(e) EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

"§ 3004. Service of process

"(a) MANNER OF SERVICE.—A complaint, notice, writ, or other process required to be served in an action under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

"(b) NATIONWIDE SERVICE.—A notice, writ, or other process in an action under this chapter may be served in any judicial district of the United States.

"§ 3005. Application of statutes of limitations to actions under this chapter

"(a) PREJUDGMENT REMEDIES.—With respect to a claim for a debt, an action under subchapter B may be commenced at any time before judgment on such claim.

"(b) POSTJUDGMENT REMEDIES.—With respect to a judgment on a debt, an action may be commenced under subchapter C not later than 10 years after the date of such judgment.

"§ 3006. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3007. Perishable personal property

"(a) AUTHORITY TO SELL.—If at any time during any proceeding under this chapter, the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise significantly depreciate in value during the pendency of the proceedings, the court shall order a commercially reasonable sale of such property.

"(b) DEPOSIT OF SALE PROCEEDS.—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

"(c) PRESUMPTION.—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

"§ 3008. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States.

"§ 3009. United States marshals' authority to designate keeper

"Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3010. Co-owned property

"(a) LIMITATION.—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) the term 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

"(2) the term 'qualified retirement arrangement' means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

"§ 3011. Assessment of surcharge on a debt

"(a) SURCHARGE AUTHORIZED.—Subject to subsection (b), the United States is entitled to receive a surcharge of 10 percent of the amount of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

"(b) LIMITATION.—Subsection (a) shall not apply if—

"(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

"(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

"§ 3012. Joinder of additional defendant

"The United States or the debtor may join as an additional defendant in an action under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

"§ 3013. Modification or protective order; supervision of enforcement

"The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

"§ 3014. Exempt property

"(a) TYPE AND VALUE.—Except as provided in subsection (b), the following property of a natural person shall not be subject to the procedures under this chapter, and, notwithstanding any other provision of this chapter, may be retained in the full custody, control, and ownership of such person:

"(1) Either—

"(A) the debtor's interest in real property that is used as the debtor's primary residence if such real property has a value of less than $100,000; or

"(B) the proceeds, but not to exceed $70,000, of the sale of the debtor's interest in real property that is used as the debtor's primary residence if such real property has a value of $100,000 or more.

"(2) The debtor's interest, not to exceed an aggregate $30,000 in value, in—

"(A) a burial plot for the debtor or a dependent of the debtor;

"(B) one motor vehicle;

"(C) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

"(D) wedding and heirloom jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

"(E) implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor; and

"(F) other property, not to exceed an aggregate $2000 in value.

"(3) Any life insurance policy in force for more than 2 years, other than a credit life insurance contract, to the extent that a dependent of the debtor is named as a beneficiary of the policy.

"(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

"(5) The debtor's right to receive, or currency or intangible personal property traceable to such right to receive—

"(A) a social security benefit, unemployment compensation or benefit, a local public assistance benefit, or aid to families with dependent children;

"(B) a veterans' benefit;

"(C) a disability or illness benefit (including Medicaid and Medicare);

"(D) an award under a crime victim's reparation law;

"(E) a payment on account of the wrongful death of an individual of whom the debtor was a dependent;

"(F) compensation for pecuniary loss, or a payment for pain and suffering, on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent; or

"(G) child support, paid or received.

"(6) The debtor's right to receive, or currency or intangible personal property that is traceable to such right to receive—

"(A) earnings that would not be subject to garnishment under section 3205;

"(B) alimony, spousal support, or separate maintenance, paid or received;

"(C) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service unless—

"(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(ii) such payment is on account of age or length of service; and

"(iii) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(D) the proceeds from any life insurance policy with respect to which the insured is deceased, to the extent that the debtor or a dependent of the debtor is named as a beneficiary of the policy; or

"(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent;

to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(b) LIMITATIONS ON EXEMPT PROPERTY.—

"(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor's ownership interest.

"(2) HEARING.—The United States, by application to the court in which an action under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

"(3) STAY OF LEVY.—Assertion of an exemption shall prevent the United States from levying on the property for which such exemption is claimed unless the court determines that the debtor has a significant nonexempt interest in such property. The United States may not levy on, sell, or otherwise enjoin the debtor's use of any exempt interest in property.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies.
"3102. Attachment.
"3103. Receivership.

"§ 3101. Prejudgment remedies

"(a) APPLICATION.—(1) The United States may, in conjunction with the complaint or at any time after the filing of a civil action on a claim for a debt, make application under oath to a court to issue any prejudgment remedy.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought have been satisfied.

"(3) Such application shall—

"(A) state that the debtor against whom the prejudgment remedy is sought shall be afforded an opportunity for a hearing; and

"(B) set forth with particularity that all statutory requirements under this chapter for the issuance of the prejudgment remedy sought.

"(b) GROUNDS.—Subject to section 3102 or 3103, a prejudgment remedy may be granted by any court, with or without prior notice to the debtor against whom such remedy is sought, if the United States shows reasonable cause to believe that—

"(1) the debtor—

"(A) is about to leave the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States in its effort to recover a debt;

"(B) has or is about to assign, dispose, remove, or conceal, ill treat, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States;

"(C) has or is about to convert or has converted the debtor's property into money, securities, or evidence of debt in a manner prejudicial to the United States; or

"(D) has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(2) a prejudgment remedy is required to obtain jurisdiction within the United States and the prejudgment remedy sought will result in obtaining such jurisdiction.

"(c) AFFIDAVIT.—(1) The application under subsection (a), shall include an affidavit establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.

"(2) The affidavit shall state—

"(A) specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt;

"(B) one or more of the grounds specified in subsection (b); and

"(C) the requirements of section 3102(b) or 3103(a), as the case may be.

"(3) No bond is required of the United States.

"(d) NOTICE AND HEARING.—(1) On filing an application by the United States as provided in this section, the clerk shall issue a notice to the counsel for the United States for service on the debtor against whom the prejudgment remedy is sought and on any other person whom the United States reasonably believes, after exercising due diligence, has possession, custody, or control of property affected by such remedy. Three copies of the notice shall be served on each such person. The notice shall be in substantially the following form:

"'NOTICE

"'You are hereby notified that your [property] is being taken away from you by the United States Government ("the Government"), which says that you owe it a debt of $[amount] for [reason for debt] and has filed a lawsuit against you to collect this debt. The Government says it must take your property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure you will pay if the court determines that you owe this money.

"'In addition, you are hereby notified that there are exemptions under Federal law which may protect some of your property from being taken by the Government if you can show that the exemptions apply to you. Below is a summary of the major exemptions which apply in most situations:

"'* your home if its fair market value is less than $100,000, or up to $70,000 in equity in your home if its fair market value is $100,000 or more;

"'* up to a total of $30,000 value in household furnishings and goods, appliances, clothes, wedding and heirloom jewelry, books, musical instruments, animals, crops, one motor vehicle, and one family burial plot;

"'* any life insurance policy which names a member of your family as the beneficiary;

"'* up to a total of $1,500 value in tools, professional books, and other implements used in your job or business, or a member of your family's job or business;

"'* professionally prescribed health aids for you or a member of your family;

"'* any social security, public assistance, child support, veterans disability, illness, and unemployment benefit;

"'* any alimony, spousal support, pension payment, payment to compensate you for loss of future earnings, and life insurance proceeds you receive as a beneficiary under someone else's policy, and three-fourths or more of your take-home pay, but only to the extent you reasonably need them to support yourself and your family;

"'* any restitution award you receive as a crime victim and any court award to compensate you for personal bodily injury or wrongful death.

"'If you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the above exemptions, you have a right to ask the court to return your property to you.

"'If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

"'At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has taken is exempt. You may make any or all of these explanations as you see fit.

"'Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court.'.

"(2) By requesting, at any time before judgment on the claim for a debt, the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court shall hold a hearing on such motion as soon as practicable, or, if requested by the debtor, within 5 days after receiving the request for a hearing or as soon thereafter as possible. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim for the debt for which such remedy was granted and of any defense or claim of exemption asserted by such person;

"(B) compliance with any statutory requirement for the issuance of the prejudgment remedy granted;

"(C) the existence of any ground set forth in subsection (b); and

"(D) the inadequacy of alternative remedies (if any) to protect the interests of the United States.

"(e) ISSUANCE OF WRIT.—On the court's determination that the requirements of subsections (a), (b), and (c) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(f) SERVICE.—Not later than the time a prejudgment remedy is put into effect, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States be-

lieves, after exercising due diligence, has possession, custody, or control of the property, a copy of the application, the order granting such remedy, and the notice required by subsection (d).

"§ 3102. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) Any property in which the debtor has a significant nonexempt interest, except earnings, may be attached pursuant to a writ of attachment in an action against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The value of property attached shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property in receivership under this subchapter.

"(b) AVAILABILITY OF ATTACHMENT.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to attach property in which the debtor has a significant nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) Subject to subsections (a) and (b), a writ of attachment shall be issued by the court directing the United States marshal of the district where property described in subsection (a) is located to attach the property.

"(2) Several writs of attachment may be issued at the same time, or in succession, and sent to different judicial districts until sufficient property is attached.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to be attached.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property specified for attachment if found within the district. The marshal may not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter any property owned, occupied, or controlled by the debtor, except that the marshal may not enter a residence or other building unless the writ expressly authorizes the marshal to do so or upon specific order of the court.

"(3) Levy on real property is made by entering the property and posting the writ and notice of levy in a conspicuous place upon the property.

"(4) Levy on personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied on.

"(5) The United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of levy on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the property subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it and state the location where it was attached, the date and time it was attached, and the disposition made of the property. If no property was attached, the return shall so state.

"(3) If the property levied on is claimed, replevied under subsection (j)(2), or sold under section 3007 after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(4) If personal property is replevied, the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment under this section creates a lien in favor of the United States on the property or, in the case of perishable property sold under section 3007, on the proceeds of the sale.

"(2) Such lien shall be ranked ahead of any other security interests perfected after the later of the time of levy and the time a copy of the notice of levy is filed under subsection (d)(5).

"(3) Such lien shall arise from the time of levy and shall continue until a judgment in the action is obtained or denied, or the action is otherwise dismissed. The death of the debtor whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(g) REDUCTION OR DISSOLUTION OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the debtor may submit a motion to the court for a reduction of the amount of the attachment or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the property to be released, if after a hearing the court finds that the amount of the attachment is excessive or unreasonable or if the attachment is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"(4) If any property claimed to be exempt is levied on, the debtor may, at any time after such levy, request that the court vacate such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to the debtor.

"(h) REPLEVIN OF ATTACHED PROPERTY BY DEBTOR; BOND.—If attached property is not sold before judgment, the debtor may replevy such property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the reasonable value of the property to be replevied.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed, or sold, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(j) JUDGMENT AND DISPOSITION OF ATTACHED PROPERTY.—

"(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the proceeds of the personal property sold pursuant to section 3007 to be applied to the satisfaction of the judgment, and shall order the sale of any remaining personal property and any real property levied on to the extent necessary to satisfy the judgment.

"(2) JUDGMENT FOR THE UNITED STATES WHEN PERSONAL PROPERTY REPLEVIED.—With respect to personal property under attachment that is replevied, the judgment which may be entered shall be against the debtor against whom the writ attachment is issued and also against the sureties on the debtor's replevin bond for the value of the property.

"(3) RESTORATION OF PROPERTY AND EXONERATION OF REPLEVIN BOND.—If the attachment is vacated or if the judgment on the claim for the debt is for the person against whom the writ attachment is issued, the court shall order the property, or proceeds of perishable property sold under section 3007, restored to the debtor and shall exonerate any replevin bond.

"§ 3103. Receivership

"(a) APPOINTMENT OF A RECEIVER.—If the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest only if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

"(b) POWERS OF RECEIVER.—(1) The appointing court may authorize a receiver—

"(A) to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions and for such purposes as the court shall direct; and

"(B) to administer, collect, improve, lease, repair or sell pursuant to section 3007 such

real and personal property as the court shall direct.

A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property.

"(2) Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers, or other professional persons.

"(c) DURATION OF RECEIVERSHIP.—A receivership shall not continue past the entry of judgment unless the court orders it continued under section 3203(e) or unless the court otherwise directs its continuation.

"(d) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds. The receiver's accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the debtor and the United States with a copy thereof.

"(e) MODIFICATION OF POWERS; REMOVAL.—On motion of the receiver or on its own initiative, the court which appointed the receiver may remove the receiver or modify the receiver's powers at any time.

"(f) PRIORITY.—If more than one court appoints a receiver for particular property, the receiver first qualifying under law shall be entitled to take possession, control, or custody of the property.

"(g) COMPENSATION OF RECEIVERS.—(1) A receiver is entitled to such commissions, not exceeding 5 percent of the sums received and disbursed by him, as the court allows unless the court otherwise directs.

"(2) If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remain unpaid.

"(3) At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by the receiver.

"SUBCHAPTER C—POSTJUDGMENT REMEDIES

"Sec.
"3201. Judgment liens.
"3202. Enforcement of judgments.
"3203. Execution.
"3204. Installment payment order.
"3205. Garnishment.
"3206. Discharge.
"3207. Postjudgment discovery.

"§ 3201. Judgment liens

"(a) Creation.—A judgment in a civil action shall create a lien on all real property of a judgment debtor on filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of section 6323(f) of the Internal Revenue Code of 1986. A lien created under this paragraph is for the amount necessary to satisfy the judgment, including costs and interest.

"(b) PRIORITY OF LIEN.—A lien created under subsection (a)(1) shall have priority over any other lien or encumbrance which is perfected later in time.

"(c) DURATION OF LIEN; RENEWAL.—A lien created under subsection (a) is effective, unless satisfied, for a period of 20 years or such longer period as the debtor and the United States may agree to.

"(d) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released on the filing of a satisfaction of judgment or release of lien in the same manner as the judgment is filed to obtain the lien.

"(e) EFFECT OF LIEN ON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency of the United States that is responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants, loans, and funds.

"(f) SALE OF PROPERTY SUBJECT TO JUDGMENT LIEN.—(1) On proper application to a court, the court may order the United States to sell, in accordance with sections 2001 and 2002, any real property subject to a judgment lien in effect under this section.

"(2) This subsection shall not preclude the United States from using an execution sale pursuant to section 3203(g) to sell real property subject to a judgment lien.

"§ 3202. Enforcement of judgments

"(a) ENFORCEMENT REMEDIES.—A judgment may be enforced by any of the remedies set forth in this subchapter. A court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to support such remedies, subject to rule 81(b) of the Federal Rules of Civil Procedure.

"(b) NOTICE.—On the commencement by the United States of an action under this subchapter to obtain a remedy, the clerk of the court shall issue to the counsel for the United States a notice in substantially the following form:

"'NOTICE

"'You are hereby notified that your [property] is being taken away from you by the United States Government, which has a court judgment in [case docket number and jurisdiction of court] of $[amount] for [reason of debt].

"'In addition, you are hereby notified that there are exemptions under Federal law which may protect some of your property from being taken by the United States Government if you can show that the exemptions apply to you. Below is a summary of the major exemptions which apply in most situations:

"'* your home if its fair market value is less than $100,000, or up to $70,000 in equity in your home if its fair market value is $100,000 or more;

"'* up to a total of $30,000 value in household furnishings and goods, appliances, clothes, wedding and heirloom jewelry, books, musical instruments, animals, crops, one motor vehicle, and one family burial plot;

"'* any life insurance policy which names a member of your family as the beneficiary;

"'* up to a total of $1,500 value in tools, professional books, and other implements used in your job or business, or a member of your family's job or business;

"'* professionally prescribed health aids for you or a member of your family;

"'* any social security, public assistance, child support, veterans, disability, illness, and unemployment benefit;

"'* any alimony, spousal support, pension payment, payment to compensate you for loss of future earnings, life insurance proceeds you receive as a beneficiary under someone else's policy, and three-fourths or more of your take-home pay, but only to the extent you reasonably need them to support yourself and your family;

"'* any restitution award you receive as a crime victim and any court award to compensate you for personal bodily injury or wrongful death.

"'You have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the above exemptions [For a default judgment:] or if you think you do not owe the money to the United States Government that it says you do.

"' If you want a hearing, you must notify the court within 30 days after you receive this notice. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

"'At the hearing you may explain to the judge why you believe the property the Government has taken is exempt [For a default judgment:] why you think you do not owe the money to the Government. [For a writ of execution:] If you do not request a hearing within 30 days of receiving this notice, your [property] may be sold at public auction and the payment used toward the money you owe the Government.'.

"(c) SERVICE.—A copy of the notice and a copy of the application for granting a remedy under this subchapter shall be served by counsel for the United States on the debtor against whom such remedy is sought and on each person whom the United States, after diligent inquiry, has reasonable cause to believe has an interest in property to which the remedy is directed.

"(d) HEARING.—By requesting, within 30 days after receiving the notice described in section 3202(b), the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court that issued such order shall hold a hearing on such motion as soon as practicable, or, if so requested by the debtor, within 5 days after receiving the request or as soon thereafter as possible. The issues at such hearing shall be limited to—

"(1) the probable validity of any claim of exemption by the debtor;

"(2) compliance with any statutory requirement for the issuance of the postjudgment remedy granted; and

"(3) if the judgment is by default, to the extent that the Constitution and laws of the United States otherwise provide a right to a hearing on the issue, the probable validity of the claim for the debt which is merged in the judgment, and of the existence of good cause for setting aside such judgment.

"(d) SALE OF PROPERTY.—The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 or by execution sale pursuant to sec-

tion 3203(g). If a hearing is requested pursuant to subsection (d), property with respect to which the request relates shall not be sold before such hearing.

"§ 3203. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property in which the judgment debtor has a significant nonexempt interest shall be subject to levy pursuant to a writ of execution. The debtor's earnings shall not be subject to execution while in the possession, custody, or control of the debtor's employer. Co-owned property shall be subject to execution to the extent such property is subject to execution under the law of the State in which it is located.

"(b) CREATION OF EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied on under a writ of execution and shall date from the time of the levy. Such lien shall have priority over all subsequent liens and shall be for the aggregate amount of the judgment, costs, and interest. The execution lien on any real property as to which the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) WRIT OF EXECUTION.—

"(1) ISSUANCE.—On written application of counsel for the United States, the court may issue a writ of execution. Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(2) FORM OF WRIT.—

"(A) GENERAL CONTENTS.— A writ of execution shall specify the date that the judgment is entered, the court in which it is entered, the amount of the judgment if for money, the amount of the costs, the amount of interest due, the sum due as of the date the writ is issued, the rate of postjudgment interest, the name of the judgment debtor, and the judgment debtor's last known address.

"(B) ADDITIONAL CONTENTS.—(i) Except as provided in clauses (ii) and (iii), the writ shall direct the United States marshal to satisfy the judgment by levying on and selling property in which the judgment debtor has a significant nonexempt interest, but not to exceed property reasonably equivalent in value to the aggregate amount of the judgment, costs, and interest.

"(ii) A writ of execution issued on a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(iii) A writ of execution on a judgment for the recovery of personal property or its value shall direct the marshal, in case a delivery of the specific property cannot be had, to levy and collect such value out of any property in which the judgment debtor has a significant nonexempt interest.

"(d) LEVY OF EXECUTION.—

"(1) IN GENERAL.—Levy on property pursuant to a writ of execution issued under this section shall be made in the same manner as levy on property is made pursuant to a writ of attachment issued under section 3102(d).

"(2) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ shall be recognized and enforced by the court for the district in which the estate of the deceased is located. The execution lien may be enforced—

"(A) against the executor, administrator, or personal representative of the estate of the deceased; or

"(B) if there be none, against the deceased's property coming to the heirs or devisees or at their option against cash in their possession, but only to the extent of the value of the property coming to them.

"(3) RECORDS OF UNITED STATES MARSHAL.—(A) A United States marshal receiving a writ of execution shall endorse thereon the exact hour and date of receipt.

"(B) The United States marshal shall make a written record of every levy, specify the property on which levy is made, the date on which levy is made, and the marshal's costs, expenses, and fees

"(C) The United States marshal shall make a written return to the court on each writ of execution stating concisely what is done pursuant to the writ and shall deliver a copy to counsel for the United States who requests the writ. The writ shall be returned not more than—

"(i) 90 days after the date of issuance if levy is not made; or

"(ii) 10 days after the date of levy on property.

"(e) APPOINTMENT OF RECEIVER.—Pending the levy of execution, the court may appoint a receiver to manage property described in such writ if there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

"(f) REPLEVY; REDEMPTION.—

"(1) BEFORE EXECUTION SALE.—(A) Before execution sale, the United States marshal may return property to the judgment debtor any personal property taken in execution, on—

"(i) satisfaction of the judgment, interest, and costs, and any costs incurred in connection with scheduling the sale; or

"(ii) receipt from the judgment debtor of a bond—

"(I) payable to the United States, with 2 or more good and sufficient sureties to be approved by the marshal, conditioned on the delivery of the property to the marshal at the time and place named in the bond to be sold under subsection (g); or

"(II) for the payment to the marshal of a fair value thereof which shall be stated in the bond.

"(B) A judgment debtor who sells or disposes of property replevied under subparagraph (A) shall pay the United States marshal the stipulated value of such property.

"(C) If the judgment debtor fails to deliver such property to the United States marshal pursuant to the terms of the delivery described in subparagraph (A)(ii)(I) and fails to pay the United States marshal the stipulated value of such property, the United States marshal shall endorse the bond 'forfeited' and return it to the court from which the writ of execution issued. If the judgment is not fully satisfied, the court shall issue a writ of execution against the judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, on which execution no delivery bond shall be taken, which instruction shall be endorsed on the writ.

"(2) AFTER EXECUTION SALE.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(g) EXECUTION SALE.—

"(1) GENERAL PROCEDURES.—An execution sale under this section shall be conducted in a commercially reasonable manner.

"(A) SALE OF REAL PROPERTY.—

"(i) IN GENERAL.—(I) Except as provided in clause (ii), real property, or any interest therein, shall be sold, after the expiration of the 90-day period beginning on the date of levy under subsection (d), for cash at public auction at the courthouse of the county, parish, or city in which the greater part of the property is located or on the premises or some parcel thereof.

"(II) The court may order the sale of any real property after the expiration of the 30-day period beginning on the date of levy under subsection (d) if the court determines that such property is likely to perish, waste, be destroyed, or otherwise significantly depreciate in value during the 90-day period beginning on the date of levy.

"(III) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first publication shall appear not less than 25 days preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, the time and place of sale, and a brief description of the property to be sold, sufficient to identify the property (such as a street address for urban property and the survey identification and location for rural property), but it shall not be necessary for the notice to contain field notes. Such property shall be open for inspection and appraisal for a reasonable period before the day of sale.

"(IV) The United States marshal shall serve written notice of public sale by personal delivery, or certified or registered mail, to each person whom the marshal has reasonable cause to believe, after a title search is conducted by the United States, has an interest in property under execution, including lienholders, co-owners, and tenants, at least 25 days before the day of sale, to the last known address of each such person.

"(ii) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel shall be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(iii) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the judgment debtor may—

"(I) divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court;

"(II) furnish a survey of such prepared by a registered surveyor; and

"(III) designate the order in which those lots shall be sold.

When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(B) SALE OF PERSONAL PROPERTY.—(i) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale unless—

"(I) the property consists of shares of stock in corporations;

"(II) by reason of the nature of the property, it is impractical to exhibit it; or

"(III) the debtor's interest in the property does not include the right to the exclusive possession.

"(ii) Notice of the time and place of the sale of personal property shall be given by the United States marshal by posting notice thereof for not less than 10 days successively immediately before the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made.

"(iii) The United States marshal shall serve written notice of public sale by personal delivery, or registered or certified mail at their last known addresses, on the judgment debtor and other persons who the marshal has reasonable cause to believe, after diligent inquiry, have a significant interest in the property.

"(2) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time by continuing the required posting or publication of notice until the date to which the sale is postponed, and appending, at the foot of each such notice of a current copy of the following:

"'The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.'.

"(3) SALE PROCEDURES.—

"(A) BIDDING REQUIREMENTS.—A bidder at an execution sale of property, may be required by the United States marshal to make a cash deposit of as much as 20 percent of the sale price proposed before the bid is accepted.

"(B) RESALE OF PROPERTY.—If the terms of the sale are not complied with by the successful bidder, the United States marshal shall proceed to sell the property again on the same day if there is sufficient time. If there is insufficient time, the marshal shall schedule and notice a subsequent sale of the property as provided in paragraphs (1) and (2).

(4) RIGHTS AND LIABILITIES OF PURCHASERS.—

"(A) TRANSFER OF TITLE AFTER SALE.—

"(i) If property is sold under this subsection and the successful bidder complies with the terms of the sale, the United States marshal shall execute and deliver all documents necessary to transfer to the successful bidder, without warranty, all the rights, titles, interests, and claims of the judgment debtor in the property.

"(ii) If the successful bidder dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the successful bidder's estate. Such delivery to the estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(B) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution shall be deemed to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the judgment debtor.

"(C) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—A successful bidder at an execution sale who fails to comply with the terms of the sale shall forfeit to the United States the cash deposit or, at the election of the United States, shall be liable to the United States, on a subsequent sale of the the property, for all net losses incurred by the United States as a result of such failure.

"(h) DISPOSITION OF PROCEEDS; FURTHER LEVY.—

"(1) DISTRIBUTION OF SALE PROCEEDS.—(A) The United States marshal shall first deliver to the judgment debtor such amounts to which the judgment debtor is entitled from the sale of partially exempt property.

"(B) The United States marshal shall next deduct from the proceeds of an execution sale of property an amount equal to the reasonable expenses incurred in making the levy of execution and in keeping and maintaining the property.

"(C) Except as provided in subparagraph (D), the United States marshal shall deliver the balance of the proceeds to the counsel for the United States as soon as practicable.

"(D) If more proceeds are received from the execution sale than is necessary to satisfy the executions held by the United States marshal, the marshal shall pay the surplus to the judgment debtor.

"(2) FURTHER LEVY IF EXECUTION NOT SATISFIED.—If the proceeds of the execution sale of the property levied on are insufficient to satisfy the execution, the United States marshal shall proceed on the same writ of execution to levy other property of the judgment debtor.

"§ 3204. Installment payment order

"(a) AUTHORITY TO ISSUE ORDER.—Subject to subsection (c), if it is shown that the judgment debtor is receiving or will receive earnings from any source, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration after a hearing, the income, resources, and reasonable requirements of the judgment debtor, any other payments to be made in satisfaction of judgments against the judgment debtor, and the amount due on the judgment in favor of the United States.

"(b) MODIFICATION OF ORDER.—On motion of the United States or the judgment debtor, and upon a showing that the judgment debtor's financial circumstances have changed or that assets not previously disclosed by the judgment debtor have been discovered, the court may modify the amount of payments, alter their frequency, or require full payment.

"(c) LIMITATION.—An order may not be issued under subsection (a), and if so issued shall have no force or effect, against a judgment debtor with respect to whom there is in effect a writ of garnishment issued under this chapter and based on the same debt.

"§ 3205. Garnishment

"(a) IN GENERAL.—A court may issue a writ of garnishment against the nonexempt disposable earnings of a judgment debtor which are in the possession, custody, or control of an employer of the debtor, in order to satisfy the judgment against the judgment debtor. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in subsection (c)(10).

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment—

"(A) the judgment debtor's name, social security number (if known), and last known address;

"(B) the nature and amount of the debt alleged to be owed and the facts that not less than 30 days has elapsed since demand on the debtor for payment of the debt was made and the judgment debtor has not paid the amount due; and

"(C) that the garnishee is believed to have possession of nonexempt disposable earnings of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) If the earnings consist of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) If the earnings consist of an interest in a partnership interest, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(C) If the earnings or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document, or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee, except that—

"(i) subject to clause (ii) in the case of a security which is transferable in the manner set forth in State law, the entity that carries on its books an account in the name of the debtor in which is reflected such security shall be the garnishee; and

"(ii) notwithstanding clause (i), the pledgee shall be the garnishee if such security is pledged.

"(c) PROCEDURES APPLICABLE TO WRIT.—

"(1) COURT DETERMINATION.—If the court determines that the requirements of this section are satisfied, the court shall issue an appropriate writ of garnishment.

"(2) FORM OF WRIT.—The writ shall state—

"(A) The nature and amount of the debt, and any cost and interest owed with respect to the debt.

"(B) The name and address of the garnishee.

"(C) The name and address of counsel for the United States.

"(D) The last known address of the judgment debtor.

"(E) That the garnishee shall answer the writ within 10 days of service of the writ.

"(F) That the garnishee shall withhold and retain any nonexempt disposable earnings for which the garnishee is or may become indebted to the judgment debtor pending further order of the court.

"(3) SERVICE OF WRIT.—The United States shall serve the garnishee and the judgment debtor with a copy of the writ of garnishment and shall certify to the court that this service was made. The writ shall be accompanied by—

"(A) an instruction explaining the requirement that the garnishee submit a written answer to the writ; and

"(B) instructions to the judgment debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(4) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath—

"(A) whether the garnishee has custody, control or possession of the judgment debtor's earnings;

"(B) a description of the earnings and the amount;

"(C) a description of any previous garnishments to which such earnings are subject and the extent to which any remaining earnings are not exempt; and

"(D) the amount of earnings the garnishee anticipates owing to the judgment debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period.

The garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States.

"(5) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the judgment debtor or the United States may file a written objection to the answer and request a hearing. The party objecting shall state the grounds for the objection and bear the burden of proving such grounds. A copy of the objection and request for a hearing shall be served on the garnishee and all other parties. The court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties.

"(6) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer the writ of garnishment or to withhold nonexempt earnings in accordance with the writ, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ and to so withhold earnings before the appearance date. If the garnishee fails to appear, or appears and fails to show good cause why the garnishee failed to comply with the writ, the court shall enter judgment against the garnishee for the amount of the judgment debtor's nonexempt disposable earnings. The court may award a reasonable attorney's fee to the United States and against the garnishee if the writ is not answered within the time specified therein and a petition requiring the garnishee to appear is filed as provided in this section.

"(7) DISPOSITION ORDER.—After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor's earnings. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as is practicable.

"(8) PRIORITIES.—Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time.

"(9) ACCOUNTING.—(A) While a writ of garnishment is in effect under this section, the United States shall give an annual accounting on the garnishment to the judgment debtor and the garnishee.

"(B) Within 10 days after the garnishment terminates, the United States shall give a cumulative written accounting to the judgment debtor and garnishee of all earnings it receives under a writ of garnishment. Within 10 days after such accounting is received, the judgment debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting shall state grounds for the objection. The court shall hold a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(10) TERMINATION OF GARNISHMENT.—A garnishment under this chapter is terminated only by—

"(A) a court order quashing the writ of garnishment;

"(B) exhaustion of no exempt disposable earnings of the judgment debtor in the possession, custody, or control of the garnishee, unless the garnishee reinstates or reemploys the judgment debtor within 90 days after the judgment debtor's dismissal or resignation; or

"(C) satisfaction of the debt with respect to which the writ is issued.

"§ 3206. Discharge

"A person who pursuant to an execution or order issued under this chapter by a court pays or delivers to the United States, a United States marshal, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

"§ 3207. Postjudgment discovery

"In an action under this chapter on a judgment for a debt, the United States may have discovery regarding the financial condition of the judgment debtor in the manner in which discovery is authorized by the Federal Rules of Civil Procedure in an action on a claim for a debt.

"SUBCHAPTER D—FRAUDULENT TRANSFERS INVOLVING DEBTS

"Sec.
"3301. Definitions.
"3302. Insolvency.
"3303. Value for a transfer or obligation.
"3304. Transfer fraudulent as to a debt to the United States.
"3305. When transfer is made or obligation is incurred.
"3306. Remedies of the United States.
"3307. Defenses, liability and protection of transferee.
"3308. Supplementary provision.

"§ 3301. Definitions

"As used in this subchapter:

"(1) 'Affiliate' means—

"(A) a person who directly or indirectly owns, controls, or holds with power to vote 20 percent or more of the outstanding voting securities of the judgment debtor other than a person who holds the securities—

"(i) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(ii) solely to secure a debt, if the person has not exercised the power to vote;

"(B) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the judgment debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the judgment debtor, other than the person who holds securities—

"(i) as a fiduciary or agent without sole power to vote the securities; or

"(ii) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the judgment debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the judgment debtor; or

"(D) a person who operates the judgment debtor's business under a lease or other agreement or controls substantially all of the judgment debtor's assets.

"(2) 'Asset' means property of a debtor, but does not include—

"(A) property to the extent it is encumbered by a valid lien; or

"(B) property to the extent it is exempt.

"(3) 'Insider' includes—

"(A) if the judgment debtor is an individual—

"(i) a relative of the judgment debtor or of a general partner of the judgment debtor;

"(ii) a partnership in which the judgment debtor is a general partner;

"(iii) a general partner in a partnership described in clause (ii); or

"(iv) a corporation of which the judgment debtor is a director, officer, or person in control;

"(B) if the judgment debtor is a corporation—

"(i) a director of the judgment debtor;

"(ii) an officer of the judgment debtor;

"(iii) a person in control of the judgment debtor;

"(iv) a partnership in which the judgment debtor is a general partner;

"(v) a general partner in a partnership described in clause (iv); or

"(vi) a relative of a general partner, director, officer, or person in control of the judgment debtor;

"(C) if the judgment debtor is a partnership—

"(i) a general partner in the judgment debtor;

"(ii) a relative of a general partner in, or a person in control of, the judgment debtor;

"(iii) another partnership in which the judgment debtor is a general partner;

"(iv) a general partner in a partnership described in clause (iii); or

"(v) a person in control of the judgment debtor.

"(D) an affiliate of the judgment debtor or an insider of an affiliate of the judgment debtor; and

"(E) a managing agent of the judgment debtor.

"(4) 'Lien' means a charge against or an interest in property to secure payment of a debt and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, and a statutory lien.

"(5) 'Relative' means an individual related, by consanguinity or adoption, within the third degree as determined by the common law, a spouse, or an individual so related to a spouse within the third degree as so determined;

"(6) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(7) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained in legal or equitable proceeding.

"§ 3302. Insolvency

"(a) IN GENERAL.—Except as provided in subsection (c), a debtor is insolvent if the sum of the judgment debtor's debts is greater than all of the judgment debtor's assets at a fair valuation.

"(b) PRESUMPTION.—A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) CALCULATION.—A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of—

"(1) all of the partnership's assets; and

"(2) the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) ASSETS.—For purposes of this section, assets do not include property that is transferred, concealed, or removed with intent to hinder, delay, or defraud the United States or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) DEBTS.—For purposes of this section, debts do not include an obligation to the extent such obligation is secured by a valid lien on property of the judgment debtor not included as an asset.

"§ 3303. Value for transfer or obligation

"(a) TRANSACTION.—Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the judgment debtor or another person.

"(b) REASONABLY EQUIVALENT VALUE.—For the purposes of sections 3304 and 3307, a person gives a reasonably equivalent value if the person acquires an interest of the judgment debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the judgment debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) PRESENT VALUE.—A transfer is made for present value if the exchange between the judgment debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3304. Transfer fraudulent as to a debt to the United States

"(a) POSTJUDGMENT TRANSFERS.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a judgment on a debt to the United States which arises before the transfer is made or the obligation is incurred if—

"(1)(A) the judgment debtor makes the transfer or incurs the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation; and

"(B) the judgment debtor is insolvent at the time or the judgment debtor becomes insolvent as a result of the transfer or obligation; or

"(2)(A) the transfer was made to an insider for an antecedent debt, the judgment debtor was insolvent at the time; and

"(B) the insider had reasonable cause to believe that the judgment debtor was insolvent.

"(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a judgment on a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the judgment debtor makes the transfer or incurs the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the judgment debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the judgment debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"§ 3305. When transfer is made or obligation is incurred

"For the purposes of this subchapter:

"(1) A transfer is made—

"(A) with respect to an asset that is real property (other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset), when the transfer is so far perfected that a good-faith purchaser of the asset from the judgment debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(B) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire, without regard to this subchapter, a judicial lien that is superior to the interest of the transferee.

"(2) If applicable law permits the transfer to be perfected as approved in paragraph (1) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the judgment debtor and the transferee.

"(4) A transfer is not made until the judgment debtor has acquired rights in the asset transferred.

"(5) An obligation is incurred—

"(A) if oral, when it becomes effective between the parties; or

"(B) if evidenced by a writing executed by the obligor, when the writing is delivered to or for the benefit of the obligee.

"§ 3306. Remedies of the United States

"(a) IN GENERAL.—In an action under this subchapter for relief against a transfer or obligation, the United States, subject to section 3307 and to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure, may obtain—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the debt to the United States; or

"(2) a remedy under this chapter against the asset transferred or other property of the transferee.

"(b) LIMITATION.—In an action under this subchapter, relief may be granted only against a transfer or obligation occurring not more than 4 years before the commencement of the action on the claim merged in the judgment on a debt.

"§ 3307. Defenses, liability, and protection of transferee

"(a) GOOD FAITH TRANSFER.—A transfer or obligation is not fraudulent under section 3304(a) with respect to a person who took in good faith and for a reasonably equivalent value or against any transferee or obligee subsequent to such person.

"(b) LIMITATION.—Except provided in subsection (d), to the extent a transfer is voidable in an action by the United States under section 3306(a)(1), the United States may recover judgment for the value of the asset transferred, but not to exceed the judgment on a debt. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee to such good-faith transferee.

"(c) VALUE OF ASSET.—For purposes of subsection (b), the value of the asset is the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) RIGHTS OF GOOD FAITH TRANSFEREES AND OBLIGEES.—Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the judgment debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) EXCEPTIONS.—A transfer is not fraudulent under section 3304(a) or section 3304(b)(2) if the transfer results from—

"(1) termination of a lease upon default by the judgment debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the State where the property is located.

"(f) LIMITATION OF VOIDABILITY.—A transfer is not voidable under section 3304(a)(2)—

"(1) to the extent the insider gave new value to or for the benefit of the judgment debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the judgment debtor and the insider; or

"(3) if made pursuant to a good-faith effort to rehabilitate the judgment debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the judgment debtor.

"§ 3308. Supplementary provision

"Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause shall apply to actions under this subchapter.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 523(a)(8) of title 11, United States Code, is amended—

(1) by striking "for an educational" and all that follows through "unless", and inserting the following:

"for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless"; and

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

"(A) such loan, benefit, scholarship, or stipend overpayment or loan first became due more than 7 years (exclusive of any applicable suspension of the repayment period)

before the date of the filing of the petition; or".

SEC. 202. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require;".

SEC. 203. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond;".

SEC. 204. Section 3142(g)(4) of title 18, United States Code, is amended by—

(1) striking out "(c)(2)(K)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(2) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 205. Section 3552(d) of title 18, United States Code, is amended by adding at the end the following: "The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

SEC. 206. (a) Section 550 of title 28, United States Code, is amended—

(1) in the heading by striking "and messengers" and inserting ", messengers, and private process servers"; and

(2) by striking "and messengers on" and inserting ", messengers, and private process servers on".

(b) The table of sections of chapter 35 of title 28, United States Code, is amended by striking the item relating to section 550 and inserting the following:

"550. Clerical assistants, messengers, and private process servers.".

SEC. 207. Section 1962 of title 28, United States Code, is amended by inserting after the first sentence the following: "This section does not apply to judgments entered in favor of the United States.".

SEC. 208. Section 1963 of title 28, United States Code, is amended by inserting after the first sentence the following: "Such a judgment entered in favor of the United States may be so registered any time after judgment is entered.".

SEC. 209. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 2044. Payment of fine with bond money

"On motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.".

(b) The table of sections for chapter 29 of title 28, United States Code, is amended by adding at the end thereof the following:

"2044. Payment of fine with bond money.".

SEC. 210. Section 2410(c) of title 28, United States Code, is amended by adding at the end the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 211. Section 3711(a) of title 31, United States Code, is amended in the matter preceding paragraph (1) by inserting "(including an agency in the Department of Agriculture)" after "legislative agency".

SEC. 212. (a) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end the following:

"§ 3720B. Sale of debts

"(a) Notwithstanding any other provision of law, the head of an executive or legislative agency may—

"(1) sell debts owed to the United States to any private debt collection agency;

"(2) hire private debt collection agencies and law firms to collect such debts, without regard to the value of any debt; and

"(3) assign attorneys in such agency to participate in the collection of such debts.

"(b) Subsection (a) shall not be construed to modify or affect section 3002(1) of title 28 (relating to the definition of Counsel for the United States).".

(b) The table of sections at the beginning of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following:

"3720B. Sale of debts.".

TITLE III—MISCELLANEOUS

SEC. 301. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by title I of this Act shall apply with respect to actions pending on the effective date of this Act in any court on—

(A) a claim for a debt; or

(B) a judgment for a debt.

(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act.

(3) For purposes of this subsection—

(A) the term "court" means a Federal, State, or local court, and

(B) the term "debt" has the meaning given such term in section and 3002(3) of such chapter.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, H.R. 5640 is based on a proposal from the U.S. attorneys to assist them in collecting debts owed the United States more efficiently and effectively. Under the current system, Federal loans are governed by uniform standards set by Federal law. The standards and procedures for collecting debts related to those loans, however, are determined by State law. And, as you can imagine, the patchwork of differing and overlapping State laws makes the task of debt collection a difficult one, to say the least.

On June 14 of this year, the Subcommittee on Economic and Commercial Law, held a hearing on this subject. During that hearing, the U.S. attorneys made a strong case for a uniform Federal law and procedure in this area. At the same time, other expert witnesses urged the subcommittee not to overlook the important protections given debtors and other creditors under State law in the drive for uniformity.

We have attempted to be responsive to both points of view. The bill before us today represents a balanced approach which preserves the thrust of the U.S. attorneys' proposal while showing appropriate regard for basic fairness to debtors, their dependents, and other creditors.

In addition, the act was carefully crafted not to supersede existing Federal laws that specify other procedures applicable with respect to the recovery of claims or judgments involved in those statutes. The bill thus provides a uniform procedure for U.S. attorneys to enforce judgments and recover other debts owed the United States in Federal Court and under Federal law.

Significantly, the bill would allow U.S. attorneys to reach all pending claims for debts owed to the U.S. Government, as well as any judgment on the books going back 10 years. In other words, we are including in the scope of the act all debts owing to the Government that span the go-go decade of the 1980's when many wheelers and dealers threw prudence and sound business judgment to the winds in their vain quest for instant wealth.

At the beginning of this fiscal year, the Office of Management and Budget estimated that the total debts owed the Federal Government had reached $99 billion. And that figure is certain to increase in the next few years; the S&L crisis itself will produce hundreds of billions in new debts before it is completely resolved. At a time of overwhelming Federal deficits, there is simply no justification for leaving such a large roster of delinquent debts unrecovered. This bill should be an im-

portant tool in collecting those debts, and I urge the House to approve it.

□ 1350

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

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

H.R. 5640, the Federal Debt Collection Procedures Act of 1990, is important legislation designed to facilitate the Federal Government's efforts to recover amounts owed the United States. When financial obligations to the United States remain uncollected, the American taxpayer carries a heavier burden. The extent of the problem is documented in testimony before the Subcommittee on Economic and Commercial Law. United States Attorney Bob Wortham—from the Eastern District of Texas—citing a treasury report, points out that [a]s of the end of fiscal year 1989, $99 billion in outstanding delinquent debt has been reported by Federal agencies to the Office of Management and Budget.

Today the Federal Government is hampered in its debt collection efforts by the absence of a uniform nationwide Federal debt collection law. U.S. attorneys today are relegated to utilizing the diverse debt collection procedures available in the 50 States. The result is that geography often determines whether the Federal Government succeeds or fails to collect on overdue obligations.

Persons who owe money to the United States must not receive preferred treatment because they live in—or choose to relocate to—jurisdictions with very limited collection remedies. Principles of fair play require that individuals with comparable debts to the United States receive similar treatment throughout our country. The States, of course, retain the authority to balance the rights of debtors and private creditors—and remain free to provide more effective mechanisms for obtaining payments for private creditors.

U.S. attorneys from districts all over the country are unanimous in seeking a uniform, nationwide Federal debt collection law. They deserve great credit for pointing out deficiencies in current debt collection practices. The expertise of these public servants—who are involved so directly in litigating on behalf of the United States—is an invaluable resource to members of the Judiciary Committee.

By acting favorably today on H.R. 5640, we can look forward to presenting Federal debt collection legislation to the President before the 101st Congress adjourns. In my view, the differences between H.R. 5640 and S. 84, which has passed in the other body, can be resolved without undue difficulty in the next few weeks. Both bills incorporate a recognition of the need for procedural unformity. The House version includes an amendment—offered by my colleague from California [Mr. CAMPBELL]—that permits greater utilization of private sector services in Federal debt collection efforts. I commend that provision to my colleagues in the other body.

This legislation hopefully will represent a significant contribution to deficit reduction efforts in the years ahead. I urge my colleagues to join me in voting for passage of H.R. 5640.

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

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

Mr. FISH. Mr. Speaker, I thank the gentleman from California [Mr. MOORHEAD] for his kind words and for yielding.

Mr. Speaker, I welcome the opportunity to speak in support of H.R. 5640, the Federal Debt Collection Procedures Act of 1990.

In view of the huge national debt, it is essential for the United States to take all reasonable steps to collect on overdue obligations. When millions of dollars in obligations to the Federal Government are lost to the Treasury, the American people pay a heavy price.

U.S. attorneys deserve special commendation for developing an earlier version of legislation incorporating uniform Federal debt collection procedures—and for providing assistance to the Committee on the Judiciary in its efforts to address this issue. They have been in a unique position to identify debt collection related problems because they have been actively involved on a daily basis in litigating cases on behalf of the Federal Government.

Uniform Federal debt collection legislation is needed to respond to a major inequity in the debt collection process today. Persons with similar obligations to the United States receive very different treatment because Federal courts rely on State laws governing collection remedies.

Our objective has been to adopt procedures that not only will enhance the Government's debt collection efforts but also accord fair treatment to debtors and other creditors.

I urge my colleagues to join me in voting for passage of H.R. 5640. It is important to move this legislation at this time because we are approaching the end of the 101st Congress.

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

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

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5640, 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.

Mr. BROOKS. Mr. Speaker I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 84) to amend title 28, United States Code, to provide Federal debt collection procedures, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Debt Collection Procedures Act of 1989".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all

other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appoint-

ment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.

"3201. Judgment by confession.

"3202. Judgment lien.

"3203. Sale of property subject to judgment lien.

"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of postjudgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or

sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of

property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control

of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objebtions.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the sup-

port of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires

an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.

"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation, rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate

shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 206. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 207. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 208. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 209. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 210. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 211. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 212. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 213. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 214. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 215. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 216. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 218. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 219. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 220. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 84, and to insert in lieu thereof the provisions of the bill, H.R. 5640, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5640) was laid on the table.

FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5381) to implement certain proposals of the Federal Courts Study Committee, and for other purposes; as amended.

The Clerk read as follows:

H.R. 5381

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

TITLE I—FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION

SECTION 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Committee Implementation Act of 1990".

SEC. 102. STUDIES OF INTERCIRCUIT CONFLICTS AND APPELLATE STRUCTURE.

(a) INTERCIRCUIT CONFLICTS.—The Board of the Federal Judicial Center is requested to conduct and submit to the Congress, within 12 months after the date of the enactment of this Act, a study on—

(1) the number and frequency of conflicts among the judicial circuits in interpreting the law that remain unresolved because they are not heard by the Supreme Court; and

(2) how many of such conflicts are "intolerable" based on factors such as whether the conflict—

(A) imposes economic costs or other harm on persons engaging in interstate commerce;

(B) encourages forum shopping among circuits;

(C) creates unfairness to litigants in different circuits, as in allowing Federal benefits in one circuit that are denied in other circuits; or

(D) encourages nonacquiescence by Federal agencies in the holdings of the courts of appeals for different circuits,

but are unlikely to be resolved by the Supreme Court.

(b) STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS.—The Board of the Federal Judicial Center is requested to study the full range of structural alternatives for the Federal Courts of Appeals and to submit to the Congress and the Judicial Conference of the United States, not later than 2 years after the date of the enactment of this Act, a report on such study.

SEC. 103. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE.

Section 601 of title 28, United States Code, is amended in the second sentence by striking "Supreme Court" and inserting "Chief Justice of the United States, in consultation with the Judicial Conference".

SEC. 104. POWER OF SUPREME COURT TO DEFINE FINAL DECISION FOR PURPOSES OF SECTION 1291.

Section 2072 of title 28, United States Code, is amended by adding at the end the following:

"(c) Such rules shall define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.".

SEC. 105. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

(a) STUDY REQUIRED.—The Judicial Conference of the United States shall establish a special committee to conduct a study of the Federal defender program established under section 3006A of title 18, United States Code, including its implementation and administration.

(b) ASSESSMENT OF PROGRAM.—In conducting the study under subsection (a), the special committee shall assess the effectiveness of the Federal defender program under section 3006A of title 18, United States Code, including the following:

(1) The impact of judicial involvement in the selection and compensation of the Federal public defenders and the independence of Federal defender organizations, including the establishment and termination of Federal defender organizations and the Federal public defender and the community defender options.

(2) Equal employment and affirmative action procedures in the various Federal defender programs.

(3) Judicial involvement in the appointment and compensation of panel attorneys and experts.

(4) Adequacy of compensation for legal services provided under section 3006A of title 18, United States Code.

(5) The quality of representation under such section.

(6) The adequacy of administrative support for defender services programs.

(7) Maximum amounts of compensation for attorneys with regard to appeals of habeas corpus proceedings.

(8) Contempt, sanctions, and malpractice representation of panel attorneys.

(9) Appointment of counsel in multidefendant cases.

(10) Early appointment of counsel in general, and before the pretrial services interview in particular.

(11) The method and source of payment of the fees and expenses of fact witnesses for defendants with limited funds.

(12) The provisions of services or funds to financially eligible persons who have been arrested but not convicted, for noncustodial transportation and subsistence expenses, including food and lodging, both before and during judicial proceedings.

(c) REPORT.—Not later than September 30, 1992, the special committee shall transmit to the Judicial Conference and to the Committees on the Judiciary of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include—

(1) any recommendations for legislation that the special committee finds appropriate;

(2) a proposed formula for compensation of counsel appointed pursuant to section 3006A of title 18, United States Code, that includes an amount to cover reasonable overhead and a reasonable hourly fee; and

(3) a discussion of any procedural or operational changes that the special committee finds appropriate for implementation by the courts of the United States.

SEC. 106. EFFECT OF APPOINTMENT OF JUDGE AS DIRECTOR OF CERTAIN JUDICIAL BRANCH AGENCIES.

Section 133 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The President"; and

(2) by adding at the end the following:

"(b)(1) In any case in which a judge of the United States (other than a senior judge) assumes the duties of a full-time office of Federal judicial administration, the President shall appoint, by and with the advice and consent of the Senate, an additional judge for the court on which such judge serves. If the judge who assumes the duties of such full-time office leaves that office and resumes the duties as an active judge of the court, then the President shall not appoint a judge to fill the first vacancy which occurs thereafter in that court.

"(2) For purposes of paragraph (1), the term 'office of Federal judicial administration' means a position as Director of the Federal Judicial Center, Director of the Administrative Office of the United States Courts, or administrative assistant to the Chief Justice.".

SEC. 107. WITNESS AND JUROR FEES.

(a) WITNESS FEES.—Section 1821(b) of title 28, United States Code, is amended by striking "$30" and inserting "$40".

(b) JUROR FEES.—Section 1871(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "$30" and inserting "$40";

(2) in paragraph (2) by striking "$5" and inserting "$10"; and

(3) in paragraph (3) by striking "$5" and inserting "$10".

SEC. 108. PRISONER REVIEW AND SUPERVISION.

(a) IN GENERAL.—(1) Title 18, United States Code, is amended by inserting before chapter 313 the following:

"CHAPTER 312—PRISONER REVIEW AND SUPERVISION

"Sec.
"4220. Federal Offender Review Board; members.
"4221. Authority and jurisdiction of the Board.
"4222. Powers and duties of the Chairman.
"4223. Decisions of the Board.

"§ 4220. Federal Offender Review Board

"There is established as an independent agency in the Department of Justice a Federal Offender Review Board, which shall consist of 5 members appointed by the President, by and with the advice and consent of the Senate. The term of office of each member appointed to the Board shall expire on November 1, 1997. A member who is appointed to fill a vacant but unexpired term shall be appointed for the remainder of the vacant term. The President shall designate one member of the Board to serve as Chairman. The Chairman of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level IV and the members of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level V.

"§ 4221. Authority and jurisdiction of the Board

"The Board shall have the independence of, be subject to the statutory procedures governing, and have and exercise the powers, duties, and jurisdiction vested in, the former United States Parole Commission by statutes of the United States and the District of Columbia in effect, or saved as to particular offenders, on October 31, 1992.

"§ 4222. Powers and duties of the Chairman

"The Chairman of the Board shall have and exercise the powers and duties vested in the Chairman of the United States Parole Commission by section 4204 of chapter 311 of this title as such section existed immediately before the repeal of that section took effect.

"§ 4223. Decisions of the Board

"The Board shall be empowered to render and reconsider decisions in the case of any individual within the Board's jurisdiction, to prescribe regulations and guidelines to carry out the Board's responsibilities, and to delegate authority to hearing examiners. The decisions of the Board shall be considered

actions committed to agency discretion for the purpose of section 701(a)(2) of title 5.".

(2) The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting before the item relating to chapter 313 the following new item:

"312. Prisoner review and supervision.....4220".

(b) TRANSFER OF PERSONNEL.—There are transferred to the Federal Offender Review Board all personnel (except the Commissioners), liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the United States Parole Commission on October 31, 1992. This transfer shall be governed by section 3503(b) of title 5, United States Code.

(c) REPEAL OF OLD RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.—Section 235(b)(4) of the Comprehensive Crime Control Act of 1984 is repealed.

(d) NEW RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.—

(1) Chapter 311 continuation.—Section 235(b)(1) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(b)(1) Chapter 311 of title 18, United States Code, shall remain in effect for 5 years after the effective date as to an individual who committed an offense or an act of juvenile delinquency before the effective date, and as to a term of imprisonment described in subsection (a)(1)(B).".

(2) CONTINUATION OF CRIMINAL PENALTIES AS TO INDIVIDUAL OFFENDERS.—Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(3) All laws in effect on the day before an effective date set forth in subsection (a)(1) of this section, and which are applicable to a person who committed an offense or an act of juvenile delinquency before such effective date, shall remain in effect as to such person until the expiration of such person's sentence.".

(e) CONFORMING AMENDMENTS.—

(1) SECTION 4106.—Section 4106 of title 18, United States Code, is amended—

(A) by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board";

(B) in subsection (b) by striking "Commission" and inserting "Board";

(C) in subsection (c) by striking "Parole Commission" and inserting "Federal Offender Review Board"; and

(D) in subsection (d)—

(i) by striking "and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984"; and

(ii) by striking the comma after "November 1, 1987".

(2) SECTION 4106A.—Section 4106A of title 18, United States Code, is amended—

(A) in the section caption by striking "**parole offenders**" and inserting "**parole of offenders**";

(B) by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board";

(C) in subsection (b)(1)(C) by adding a period at the end; and

(D) in subsection (b)(2)(A) by striking "Commission" and inserting "Board".

(3) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "United States Parole Commission" and "Commission" and inserting "Federal Offender Review Board" and "Board", respectively.

(f) TRANSFER OF FUNCTIONS IN 1997.—

(1) IN GENERAL.—(A)(i) Effective November 1, 1997, the functions of the Federal Offender Review Board are transferred to 3 Federal Offender Review Commissioners.

(ii) Each such Federal Offender Review Commissioner shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The President shall designate one of those appointed as Chief Commissioner.

(B) A Commissioner may be reappointed at the expiration of that Commissioner's term. A Commissioner who is appointed to fill a vacancy shall be appointed for the remainder of the vacant term.

(C) Each Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level V, except that the Chief Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level IV.

(D) If the President determines that the anticipated caseload for the Federal Offender Review Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Commissioners during the 12-month period ending October 31, 2002, the President may set the number of Commissioners at 1 rather than 3 as of November 1, 2002.

(2) INDEPENDENCE.—The Commissioners shall be independent adjudicators within the Department of Justice, and a decision of the Commissioners shall be considered an action committed to agency discretion for the purpose of section 701(a)(2) of title 5, United States Code.

(3) RELATED TRANSFERS.—Effective November 1, 1997, all liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the Federal Offender Review Board are transferred to the Department of Justice. The Department of Justice shall thereafter provide such administrative support, including the employment of hearing examiners, as may be required by the Commissioners to fulfill the Commissioners' functions.

SEC. 109. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, is amended—

(1) by striking ", which would be removable if sued upon alone," and inserting "within the jurisdiction conferred by section 1331 of this title"; and

(2) by striking "remand all matters not otherwise within its original jurisdiction" and inserting "may remand all matters in which State law predominates".

SEC. 110. VENUE.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "the judicial district" and all that follows through "arose" and inserting the following: "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which the defendants are subject to personal jurisdiction at the time the action is commenced";

(2) in subsection (b), by striking "may be brought" and all that follows through "law" and inserting the following: "may, except as otherwise provided by law, be brought only in (1 a judicial district where any defendant resides, if all defendants reside in the same State, (2 a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought";

(3) in subsection (e), by striking "or (2)" and all that follows through "(4)" and inserting "(2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3)".

SEC. 111. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

"**§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress**

"Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than 4 years after the cause of action accrues.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1658. Time limitations on the commencement of civil actions arising under Acts of Congress.".

SEC. 112. RETIREMENT PROGRAM FOR CLAIMS COURT JUDGES.

(a) NEW RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

"**§ 178. Retirement of judges of the Claims Court**

"(a) RETIREMENT BASED ON AGE AND YEARS OF SERVICE.—A judge of the United States Claims Court who retires from office after attaining the age and meeting the service requirements, whether continuously or otherwise, of this subsection shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service. The age and service requirements for retirement under this subsection are as follows:

"Attained Age:	Years of Service:
"65	15
"66	14
"67	13
"68	12
"69	11
"70	10.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A judge of the Claims Court who is not reappointed following the expiration of the term of office of such judge, and who retires upon the completion of such term shall, subject to subsection (f), be entitled to receive, during the remainder of such judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service, if—

"(1) such judge has served at least 1 full term as judge of the Claims Court, and

"(2) not earlier than 9 months before the date on which the term of office of such judge expired, and not later than 6 months before such date, such judge advised the President in writing that such judge was willing to accept reappointment as a judge of the Claims Court.

"(c) RETIREMENT FOR DISABILITY.—A judge of the Claims Court who has served at least 5 years, whether continuously or otherwise, as such a judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime—

"(1) an annuity equal to 50 percent of the salary payable to Claims Court judges in regular active service, if before retirement such judge served less than 10 years, or

"(2) an annuity equal to the salary payable to Claims Court judges in regular active service, if before retirement such judge served at least 10 years.

"(d) RECALLING OF RETIRED JUDGES.—A judge who retires under subsection (a) or (b), may, at or after such retirement, be called upon by the chief judge of the Claims Court to perform such judicial duties with the Claims Court as may be requested of the retired judge for any period or periods specified by the chief judge, except that in the case of any such judge—

"(1) the aggregate of such periods in any one calendar year shall not (without his or her consent) exceed 90 calendar days; and

"(2) he or she shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a Claims Court judge in regular active service. Any individual performing judicial duties pursuant to this subsection shall receive the allowances for official travel and other expenses of a judge in regular active service.

"(e) DESIGNATION AND ALLOCATION OF RETIRED JUDGES.—

"(1) DESIGNATION.—Any judge who retires under the provisions of subsection (a) or (b) shall be designated 'senior judge'.

"(2) ALLOCATION OF REGULAR ACTIVE JUDGES.—Any judge who retires under this section shall not be counted as a judge of the Claims Court for purposes of the number of judgeships authorized by section 171 of this title.

"(f) ELECTION; ANNUITY IN LIEU OF CIVIL SERVICE ANNUITY.—

"(1) ELECTION.—A judge shall be entitled to an annuity under this section if the judge elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts in writing. Such an election—

"(A) may be made only while an individual is a judge of the Claims Court (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, such election may be made at any time before the day after the day on which his or her successor takes office); and

"(B) once made, shall, subject to subsection (k), be irrevocable.

"(2) ANNUITY IN LIEU OF CIVIL SERVICE ANNUITY.—A judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as a judge or otherwise;

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(C) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(D) retired pay under section 4096 of title 38.

"(g) CALCULATION OF SERVICE.—(1) For purposes of calculating the years of service of an individual under subsections (a) and (c), only those years of service as a judge of the Claims Court or a commissioner of the United States Court of Claims shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.

"(h) TIME AND MANNER OF ANNUITY PAYMENTS.—An annuity under this section shall be payable at the times and in the same manner as the salary of a Claims Court judge in regular active service. Such annuity shall begin to accrue on the day following the day on which the annuitant's salary as a judge in regular active service ceases to accrue.

"(i) PAYMENTS PURSUANT TO COURT DECREES.—(1) Payments under this section which would otherwise be made to a judge of the Claims Court based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

"(3) As used in this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or court of Indian offense.

"(j) ANNUITY AFFECTED IN CERTAIN CASES.—

"(1) FORFEITURE OF ANNUITY.—Any judge of the Claims Court who retires under this section and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim against the United States or any agency thereof shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he or she so practices law.

"(2) TEMPORARY FORFEITURE IN CERTAIN CASES.—If a judge of the Claims Court who retires under this section fails during any calendar year to perform judicial duties required of such judge by subsection (d), such judge shall forfeit all rights to an annuity under this section for the 1-year period which begins on the first day on which he or she so fails to perform such duties.

"(3) SUSPENSION OF ANNUITY DURING PERIOD OF COMPENSATED GOVERNMENT SERVICE.—If a judge of the Claims Court who retires under this section accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties under subsection (d)), such judge shall forfeit all rights to an annuity under this section for the period for which such compensation is received.

"(4) FORFEITURE NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—(A) If a judge makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (d)) shall not apply to such judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such judge is entitled on the day before such effective date.

"(B) An election under subparagraph (A)—

"(i) may be made by a judge only if such judge meets the age and service requirements for retirement under subsection (a),

"(ii) may be made only during the period during which such judge may make an election to receive an annuity under this section or while the judge is receiving an annuity under this section, and

"(iii) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

"(C) Any election under this paragraph shall take effect on the first day of the first month following the month in which the election is made.

"(k) REVOCATION OF ELECTION TO RECEIVE ANNUITY.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(1)(B), an individual who has filed an election under subsection (f) to receive an annuity may revoke such election at any time before the first day on which such annuity would (but for such revocation) begin to accrue with respect to such individual.

"(2) MANNER OF REVOKING.—Any revocation under this subsection shall be made by filing a notice thereof in writing with the Director of Administrative Office of the United States Courts.

"(3) EFFECT OF REVOCATION.—In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election under subsection (f) to receive an annuity,

"(B) for purposes of section 376 of this title—

"(i) the individual shall be treated as not having filed an election under section 376(a)(1), and

"(ii) section 376(g) shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per annum, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Claims Court or as a commissioner of the United States Court of Claims unless with respect to such service either there has been deducted and withheld the amount required by chapter 83 or 84 (as the case may be) of title 5 or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Claims Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (f), and

"(E) if subparagraph (D) is complied with, service on the Claims Court or as a commissioner of the United States Court of Claims shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(l) JUDICIAL OFFICERS RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Claims Court Judges Retirement Fund'. The Fund is appropriated for the payment of annuities and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Claims Court Judges Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—(A) There are authorized to be appropriated to the Claims Court Judges Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Claims Court Judges Retirement Fund, over the balance in the Fund as of the date the unfunded liability is determined. In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 28, United States Code, is amended by adding at the end the following new item:

"178. Retirement of judges of the Claims Court.".

(b) JUDICIAL SURVIVORS' ANNUITIES.—

(1) ANNUITIES FOR SURVIVORS OF JUDGES RETIRING UNDER NEW SYSTEM.—Section 376 of title 28, United States Code, is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "or" at the end of subparagraph (E);

(ii) by adding "or" at the end of subparagraph (F);

(iii) by inserting after subparagraph (F) the following:

"(G) a judge of the United States Claims Court;";

(iv) by striking ", or (v)" and inserting "(v)"; and

(v) by inserting before the semicolon at the end the following: ", or (vi) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990, in the case of a full-time judge of the Claims Court in active service on that date".

(B) Subsection (a)(2) is amended—

(i) by striking "and" at the end of subparagraph (E);

(ii) by adding "and" at the end of subparagraph (F); and

(iii) by adding at the end the following:

"(G) in the case of a judge of the United States Claims Court, an annuity paid under section 178 of this title;".

(C) Subsection (b) is amended in the last sentence by striking "section 377" each place it appears and inserting "section 178 or 377".

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking "redesignating paragraph (18)" and inserting "redesignating paragraph (19)".

(B) Section 604(a) of title 28, United States Code, (relating to the duties of the Director of the Administrative Office of the United States Courts), as amended pursuant to the amendment made by subparagraph (A) of this paragraph, is amended—

(i) in paragraph (7) by inserting "judges of the United States Claims Court," after "judges of the United States,";

(ii) by redesignating paragraph (23) as paragraph (24); and

(iii) by inserting after paragraph (22) the following:

"(23) Regulate and pay annuities to judges of the United States Claims Court in accordance with section 178 of this title; and".

(2) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of law, a judge of the United States Claims Court who is covered by section 178 of title 28 shall not be subject to deductions and contributions to the Fund if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under such section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(3) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) A judge of the United States Claims Court who is covered by section 178 of title 28 shall be excluded from the operation of this chapter, other than subchapters III and VII of such chapter, if the judge notifies the Director of the Administrative office of the United States Courts of an election of a retirement annuity under such section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(d) THRIFT SAVINGS PLAN.—

(1) PARTICIPATION IN THE PLAN.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"§ 8440c. Claims court judges

"(a)(1) A judge of the United States Claims Court who is covered by section 178 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to Claims Court judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) The amount contributed by a Claims Court judge for any pay period shall not exceed 5 percent of basic pay for such pay period.

"(3) No contributions shall be made under section 8432(c) of this title for the benefit of a Claims Court judge making contributions under subsection (a) of this section.

"(4)(A) Section 8433(b) of this title applies to a Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an annuity under section 178 of title 28 (including a disability annuity under subsection (c) of such section).

"(B) Section 8433(d) of this title applies to any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an annuity under section 178 of title 28.

"(5) With respect to Claims Court judges to whom this section applies, retirement under section 178 of title 28 is a separation from service for purposes of this subchapter and subchapter VII.

"(6) For purposes of this section, the terms 'retirement' and 'retire' include removal from office under section 178(c) of title 28 on the sole ground of mental or physical disability.

"(7) Sums contributed pursuant to this section by Claims Court judges, as well as all previous contributions to the Thrift Savings Fund by those judges, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(8) In the case of a Claims Court judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 178 of title 28, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—(A) The section 8440a of title 5, United States Code, that is entitled "Justices and Judges" is amended in paragraphs (1) and (4) of subsection (b) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII".

(B) The section 8440a of title 5, United States Code, that is entitled "Bankruptcy judges and magistrates" is amended by redesignating such section as section 8440b.

(C) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440a. Bankruptcy judges and magistrates."

and inserting

"8440b. Bankruptcy judges and magistrates."

"8440c. Claims Court judges.".

(e) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (24);

(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

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

"(26) 'Claims Court judge' means a judge of the United States Claims Court who is appointed under chapter 7 of title 28 or who has served under section 167 of the Federal Courts Improvement Act of 1982.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by inserting "a Claims Court judge," after "Member,"; and

(B) in subsection (c), by inserting at the end of the table the following:

"Claims Court Judge:	
2½	August 1, 1920, to June 30, 1926.
3½	July 1, 1926, to June 30, 1942.
5	July 1, 1942, to June 30, 1948.
6	July 1, 1948, to October 31, 1956.
6½	November 1, 1956, to December 31, 1969.
7	January 1, 1970, to September 30, 1988.
8	After September 30, 1988.".

(3) IMMEDIATE RETIREMENT.—Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge, United States magistrate, or Claims Court judge who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge, United States magistrate, or Claims Court judge, is entitled to an annuity.".

(4) COMPUTATION OF ANNUITY.—Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a Claims Court judge, bankruptcy judge, or United States magistrate is computed, with respect to service as a Claims Court judge, as a commissioner of the Court of Claims, as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2 1/2 percent of the individual's average pay by the years of that service.".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to judges of, and senior judges in active service with, the United States Claims Court on or after the date of the enactment of this Act.

SEC. 113. MAGISTRATES.

(a) CONSENT TO TRIAL IN CIVIL ACTIONS.—Section 636(c)(2) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "their right to consent to the exercise of" and inserting "the availability of a magistrate to exercise"; and

(2) by striking the third sentence and inserting the following: "Thereafter, either the district court judge or the magistrate may again advise the parties of the availability of the magistrate, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.".

(b) EXTENSION OF TERMS OF OFFICE OF MAGISTRATES.—Section 631(f) of title 28, United States Code, is amended by striking "60" and inserting "180".

SEC. 114. SUPPLEMENTAL JURISDICTION.

(a) GRANT OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"§1367. Supplemental jurisdiction

"(a) IN GENERAL.—Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

"(b) DIVERSITY CASES.—In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

"(c) AUTHORITY OF COURTS TO DECLINE SUPPLEMENTAL JURISDICTION.—The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

"(1) the claim raises a novel or complex issue of State law,

"(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,

"(3) the district court has dismissed all claims over which it has original jurisdiction, or

"(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

"(d) TOLLING OF TIME LIMITATIONS.—The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

"(e) DEFINITION.—As used in this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1367. Supplemental jurisdiction.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions commenced on or after the date of the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS AND TECHNICAL AMENDMENTS

SEC. 201. PLACE OF HOLDING COURT.

Section 112(a) of title 28, United States Code, is amended by striking "and Utica" in the last sentence and inserting "Utica, and Watertown".

SEC. 202. BIENNIAL CIRCUIT JUDICIAL CONFERENCE.

The first paragraph of section 333 of title 28, United States Code, is amended—

(1) in the first sentence, by striking "annually" and inserting "biennially, and may summon annually,"; and

(2) in the last sentence—

(A) by striking "the United States District Court for the District of the Canal Zone,"; and

(B) by striking "and the District Court of the Virgin Islands shall also be summoned annually" and inserting "the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,".

SEC. 203. RETIREMENT AGE OF CERTAIN FEDERAL JUDGES.

(a) JUSTICES AND JUDGES OF THE UNITED STATES.—Section 371(c) of title 28, United States Code, is amended by inserting before:

"65 ..... 15"

the following:

"62 to 64 ..... 25".

(b) JUDGES IN TERRITORIES AND POSSESSIONS.—Section 373(b) of title 28, United States Code, is amended by inserting before:

"65 ..... 15"

the following:

"62 to 64 ..... 25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any justice or judge who retires on or after the date of the enactment of this Act.

SEC. 204. CHANGE OF NAME OF UNITED STATES MAGISTRATES.

After the enactment of this Act, each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.

SEC. 205. LENGTH OF SERVICE REQUIRED FOR ELIGIBILITY UNDER THE JUDICIAL SURVIVORS' ANNUITIES ACT.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Section 376(h)(1) of title 28, United States Code, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "(A)" before "after having completed"; and

(B) by inserting after "have actually been made" the following: ", or (B) if the death of such judicial official was by assassination, before having satisfied the requirements of clause (A) if, for the period of such service, the deductions provided by subsection (b) or, in lieu thereof, the deposits required by subsection (d) have actually been made";

(2) by redesignating existing subparagraph (A) as clause (i);

(3) in existing subparagraph (B)—

(A) by striking "(B)" and inserting "(ii)";

(B) by striking "(i)" and inserting "(I)"; and

(C) by striking "(ii)" and inserting "(II)";

(4) in existing subparagraph (C)—

(A) by striking "(C)" and inserting "(iii)";

(B) in clause (i)—

(i) by striking "(i)" and inserting "(I)";

(ii) by striking "subparagraph (1)(A) of this subsection" and inserting "clause (i) of this paragraph";

(iii) by striking "(ii)" and inserting "(II)"; and

(iv) by striking "(iii)" and inserting "(III)"; and

(5) by adding at the end of subsection (h) the following:

"(6) In the case of the survivor or survivors of a judicial official to whom paragraph (1)(B) applies, there shall be deducted from the annuities otherwise payable under this section an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months prior to the judicial official's death.".

(b) DEFINITION OF ASSASSINATION.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (5)(C) by striking "and" after the semicolon;

(2) in paragraph (6) by striking the period and inserting "; and"; and

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

"(7) 'assassinated' and 'assassination' mean the killing of a judicial official described in paragraph (1) (A), (B), (F), or (G) of this section that is motivated by the performance by that judicial official of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION BY DIRECTOR.—Section 376(i) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) The Director of the Administrative Office of the United States Courts shall determine whether the killing of a judicial official was an assassination, subject to review only by the Judicial Conference of the United States. The head of any Federal agency that investigates the killing of a judicial official shall provide information to the Director that would assist the Director in making such determination.".

(d) COMPUTATION OF WIDOW'S AND WIDOWER'S ANNUITY.—Section 376(l)(1)(ii) of title 28, United States Code, is amended by striking "but more than eighteen months,".

(e) REFUND OF CONTRIBUTIONS TO FUND.—Section 376(o) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(o)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraph (A) as so redesignated, by inserting "subject to paragraph (2) of this subsection," before "before having completed"; and

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

"(2) In cases in which a judicial official dies as a result of assassination and leaves a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) or (t) of this section, paragraph (1)(A) of this subsection shall not apply.".

(f) OTHER BENEFITS.—Section 376 of title 28, United States Code, is amended by adding at the end the following:

"(u) In the case of a judicial official who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of title 5 for any year would exceed the current salary for that year of the office of the judicial official.".

(g) EFFECTIVE DATE AND TRANSITION.—

(1) EFFECTIVE DATE.—Subject to paragraph (2), the amendments made by this Act shall apply to all judicial officials assassinated on or after May 28, 1979.

(2) RULES FOR RETROACTIVE APPLICATION.—(A) In the case of a judicial official who was assassinated on or after May 28, 1979, and before the date of the enactment of this Act, if the salary deductions provided by subsection (b) of section 376 of title 28, United States Code, or the deposits required by subsection (d) of such section, have been withdrawn pursuant to subsection (o) of such section, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount so withdrawn, with interest on the amount withdrawn at 3 percent per annum compounded on December 31 of each year.

(B) In the case of the survivor or survivors of a judicial official to whom this paragraph applies who had less than 18 months of service before being assassinated, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months before the judicial official's death, plus interest as described in subparagraph (A).

(C) Subject to subparagraphs (A) and (B), the survivor or survivors of a judicial official to whom this paragraph applies shall be entitled to the payment of annuities they would have received under section 376 of title 28, United States Code, for the period beginning on the date such judicial official was assassinated and ending the date of the enactment of this Act. The Secretary of the Treasury shall pay into the Judicial Survivors' Annuities fund, out of any money in the Treasury not otherwise appropriated, the amount of the annuities to which the survivor or survivors are entitled under this subparagraph.

(3) DEFINITION.—For purposes of this subsection, the term—

(A) "assassinated" and "assassination" have the meanings given those terms in section 376(a)(7) of title 28, United States Code, as added by this section; and

(B) "judicial official" has the meaning given that term in section 376(a)(1) (A) and (B) of title 28, United States Code.

(h) CONFORMING AMENDMENTS.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (h) is amended—

(A) in paragraph (2) by striking "subparagraphs (1)(A) or (1)(B)" and inserting "clause (i) or (ii) of paragraph (1)";

(B) in paragraph (3) by striking "subparagraph" each place it appears and inserting "paragraph";

(C) in paragraph (4)—

(i) by striking "subparagraph (1)(B)" each place it appears and inserting "paragraph (1)(ii)"; and

(ii) by striking "subparagraph (1)(C)" and inserting "paragraph (1)(iii)".

(2) Subsection (a)(5)(C) is amended by striking "subparagraph" and inserting "paragraph".

SEC. 206. COMPOSITION OF JUDICIAL COUNCILS.

(a) COMPOSITION OF COUNCILS.—Section 332(a)(1) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active services.".

(b) CONFORMING AMENDMENT.—Section 332(a) of title 28, United States Code, is amended by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 207. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) TITLE 9, UNITED STATES CODE.—

(1) The section 15 of title 9, United States Code, that is designated "Appeals" is amended by redesignating such section as section 16.

(2) The table of sections at the beginning of chapter 1 of title 9, United States Code, is amended by striking "15. Appeals."

and inserting

"15. Inapplicability of the Act of State doctrine.

"16. Appeals.".

(b) TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended as follows:

(1) Section 332(f)(1) is amended by striking "(5 U.S.C. 5316)" and inserting "under section 5315 of title 5".

(2) Section 375(a)(1) is amended by striking "377 of title" and inserting "377 of this title".

(3) Section 377 is amended—

(A) in subsection (f) by striking "any annuity to which" and all that follows through the end of the subsection and inserting the following:

"(1) any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as such a judge or magistrate or otherwise;

"(2) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(3) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(4) retired pay under section 4096 of title 38."; and

(B) in subsection (h) by striking "in or after" and inserting "on or after".

(4) Section 602(b) is amended by striking "604(a)(15)(B)" and inserting "604(a)(16)(B)".

(5) Section 995(a)(22) is amended by striking "and" after the semicolon.

(6) Section 996(b) is amended by striking "89 (Health Insurance), and 91 (Conflicts of Interest)" and inserting "and 89 (Health Insurance)".

(7) Section 1499 is amended by inserting "and Safety" after "Hours".

(8 Section 1605(a)(6) is amended by striking "State" and inserting "state".

(9) Section 1610 is amended—

(A) in subsection (a)(6) by striking "State" and inserting "state"; and

(B) in subsection (e) by striking "State" and inserting "state".

(c) OTHER PROVISIONS OF LAW.—

(1) Section 1011 of the Judicial Improvements and Access to Justice Act (102 Stat. 4668) is amended—

(A) by striking "inserting a comma in lieu of the semicolon at the end thereof and adding thereafter" and inserting "adding at the end"; and

(B) in the text of section 604(a)(7) of title 28, United States Code, that is inserted by such section 1011, by striking ": *Provided*, That" and inserting ", except that".

(2) Section 204(b)(5)(A)(ii) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (102 Stat. 2201) is amended by striking "whichever, occurs later," and inserting

"whichever occurs later,".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

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

Mr. Speaker over the course of the past several years, the problems confronting the Federal courts have increased dramatically. The so-called wars that the legislative and executive branches of government have waged on drugs and crime have taken their toll on the judiciary. As the courts have been called upon to devote more and more of their time to their burgeoning criminal caseload, the less and less time remains available to decide civil cases. In an effort to gain a fresh and independent perspective on how best to cope with this increase in caseload and commensurate decline in access to justice, the Congress passed the Federal Courts Study Act of 1988, as part of the Judicial Improvements and Access to Justice Act. The Federal Courts Study Committee Act called for the creation of a 15 member committee to study the problems of the Federal courts for a period of 15 months, and report its results to the Congress, among others.

That report was issued on April 2 of this year. Mr. MOORHEAD and I had the privilege of serving on the Study Committee. H.R. 5381, the Federal Courts Study Committee Implementation Act, was introduced by Mr. MOORHEAD and myself, as a means to implement some of the noncontroversial recommendations of the Federal Courts Study Committee.

The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, held a hearing on this bill on September 6. In light of comments received by the subcommittee, a number of deletions and revisions were made to the bill which were incorporated into an amendment in the nature of a substitute that Mr. MOORHEAD and I developed. That amendment addressed the primary concerns raised by the Department of Justice, the Judicial Conference and the American Bar Association. The substitute amendment was reported favorably by my subcommittee and the full committee without objection, and the result is a bill that—consistent with our original intentions—remains essentially noncontroversial.

The recommendations implemented in this legislation touch upon a wide range of issues, that include: The study of intercircuit conflicts and appellate structure; appointment procedures for the Director and Deputy Director of the Administrative Office of the U.S. Courts; the power of the Supreme Court to define the scope of final decisions from which appeals may be taken; the study of the Federal Defender Program; the procedure for filling vacancies created by the appointment of Federal judges to head certain judicial branch agencies; creating a successor entity to the Parole Commission; removal of separate and independent claims; venue; statutes of limitations; the retirement program for claims court judges; procedures for obtaining parties' consent to civil trials before magistrates; supplemental jurisdiction; Watertown, NY, as a place of holding court; authorization for biennial circuit judicial conferences; adjusting the retirement age for certain Federal judges; and the eligibility for benefits under the Judicial Survivors' Annuities act.

At the request of the Judicial Conference, a section has been added that did not appear in the bill as reported by the Committee on the Judiciary. That section modifies the membership on circuit judicial councils, so that an equal number of district and circuit judges participate. Under current law, the membership of circuit judicial councils is weighted in favor of the circuit judges. The purpose of the new section is to equalize the voice of the circuit and district judges in administration of the circuit's business. It should be noted, however, that because the section provides that the council is to consist of the chief judge of the circuit together with an equal number of district and circuit judges, the net effect is that there will still be one more circuit judge than district judge on each judicial council.

I would like to commend the gentleman from California [Mr. MOORHEAD] for his assistance and cooperation in developing this piece of legislation, which I believe will make a number of important improvements in the operation of the Federal courts. I urge your support for H.R. 5381.

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

The Speaker, I want to commend the gentleman from Wisconsin [Mr. KASTENMEIER] and our staff members, Mike Remington, Charles Geyh, Tom Mooney, and Joe Wolf for all of the work done on this legislation.

We spent many months working on the study committee to come up with these changes. As pointed out earlier, most of the problems that the Department of Justice had with the original bill have been deleted or modified.

These proposals are not controversial. This legislation deals with institutional rather than substantive changes. This legislation, along with H.R. 3898, civil justice reform, and H.R. 5316, creating additional Federal judgeships, are directed at fine tuning our Federal court system in order to secure a just, speedy, and inexpensive determination of every action. Our Fedeal judiciary has problems in all three of these areas, delay, caused by rising caseloads and insufficient support services; spiraling costs, caused by litigation expenses and attorney fees; and inconsistent decisions, caused by the pressures placed on judges who must cope with the torrent of litigation.

In a modest way, this legislation will go a long way in helping to correct these problems and by so doing improve the delivery of justice in our Federal courts.

Other bills will follow which we will try to bring before this body with other recommendations of the Federal Court Study Committee. I welcome and applaud the expeditious manner in which the gentleman from Wisconsin has brought this legislation to the floor, and I urge support of H.R. 5381.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], our ranking member of the committee.

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

Mr. Speaker, I rise in support of H.R. 5381 and I would like to commend our courts subcommittee chairman KASTENMEIER and ranking member, CARLOS MOORHEAD, for their diligent efforts as members of the Federal Courts Study Committee.

The study committee's recommendations provide us with a useful, comprehensive list of key problems—both substantive and procedural—currently facing the Federal judiciary. Their recommendations deal with topics ranging from mandatory minimum sentences to civil rights suits to intercircuit conflicts to the resource needs of the Federal courts.

House Judiciary Committee members know first hand about court congestion, delay, and the ever-escalating cost of litigation. H.R. 5381 would, in part, implement the recommendations of the Federal Courts Study Committee so as to deal with these problems.

I urge an "aye" vote on H.R. 5381.

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

Mr. KASTENMEIER. Mr. Speaker, I would also like to commend the gentleman from New York [Mr. FISH], as a member of the subcommittee, for his contributions, as well as my other colleagues and the other members of the subcommittee.

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

The SPEAKER pro tempore. (Mr. MCNULTY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5381, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5381, the bill just passed.

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

There was no objection.

CIVIL JUSTICE REFORM ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3898) to require certain procedural changes in U.S. district courts in order to promote the just, speedy, and inexpensive determination of civil actions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3898

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 "Civil Justice Reform Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters;

(2) the courts, the litigants, the litigants' attorneys, and the Congress and the executive branch, share responsibility for cost and delay in civil litigation and its impact on access to the courts, adjudication of cases on the merits, and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties;

(3) the solutions to problems of cost and delay must include significant contributions by the courts, the litigants, the litigants' attorneys, and by the Congress and the executive branch;

(4) in identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system;

(5) evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling hearings, trials, and other litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process;

(D) utilization of alternative dispute resolution programs in appropriate cases; and

(6) because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

"Sec.
"471. Requirement for a district court civil justice expense and delay reduction plan.
"472. Development and implementation of a civil justice expense and delay reduction plan.
"473. Content of civil justice expense and delay reduction plans.
"474. Review of district court action.
"475. Periodic district court assessment.
"476. Enhancement of judicial information dissemination.
"477. Model civil justice expense and delay reduction plan.
"478. Advisory groups.
"479. Information on litigation management and cost and delay reduction.
"480. Training programs.
"481. Automated case information.
"482. Definitions.

"§ 471. Requirement for a district court civil justice expense and delay reduction plan

"There shall be implemented by each United States district court, in accordance with this chapter, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

"§ 472. Development and implementation of a civil justice expense and delay reduction plan

"(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 478.

"(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

"(1) an assessment of the matters referred to in subsection (c)(1);

"(2) the basis for its recommendation that the district court develop a plan or select a model plan;

"(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources; and

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 473. Content of civil justice expense and delay reduction plans

"(a) A civil justice expense and delay reduction plan developed and implemented under this chapter may include provisions applying the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within 18 months after the filing of the complaint, unless a judicial officer certifies that—

"(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

"(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

"(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

"(D) setting at the earliest practical time deadlines for filing motions and a time framework for their disposition;

"(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

"(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

"(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

"(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

"(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

"(ii) phase discovery into two or more stages; and

"(D) sets the earliest practicable time deadlines for filing motions and a time framework for their disposition;

"(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

"(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; and

"(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

"(A) have been designated for use in a district court; or

"(B) the court may make available, including mediation, minitrial, and summary jury trial.

"(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478, shall consider adopting the following litigation management and cost and delay reduction techniques:

"(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

"(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a).

"(c) Nothing in a district plan prescribed under this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, or any delegation of the Attorney General.

"§ 474. Review of district court action

"(a)(1) The chief judges of each district court in a circuit and the chief judge of the court of appeals for such circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d); and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a court of appeals and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1).

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d); and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

"§ 475. Periodic district court assessment

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 478.

"§ 476. Enhancement of judicial information dissemination

"(a) The Director of the Administrative Office of the United States Courts shall prepare a semiannual report, available to the public, that discloses for each judicial officer—

"(1) the number of motions that have been pending for more than 6 months and the name of each case in which such motion has been pending;

"(2) the number of bench trials that have been submitted for more than 6 months and the name of each case in which such trials are under submission; and

"(3) the number and names of cases that have not been terminated within 3 years of filing.

"(b) To ensure uniformity of reporting, the standards for categorization or characterization of judicial actions to be prescribed in accordance with section 481 shall apply to the semiannual report prepared under subsection (a).

"§ 477. Model civil justice expense and delay reduction plan

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice and expense delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

"§ 478. Advisory groups

"(a) Within 90 days after the date of the enactment of this chapter, the advisory group required in each United States district court in accordance with section 472 shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) Subject to subsection (d), in no event shall any member of the advisory group serve longer than 4 years.

"(d) Notwithstanding subsection (c), the United States Attorney for a judicial district, or his or her designee, shall be a permanent member of the advisory group for that district court.

"(e) The chief judge of a United States district court may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

"(f) The members of an advisory group of a United States district court and any person designated as a reporter for such group shall be considered as independent contractors of such court when in the performance of official duties of the advisory group and may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before such court.

"§ 479. Information on litigation management and cost and delay reduction

"(a) Within 4 years after the date of the enactment of this chapter, the Judicial Conference of the United States Courts shall

prepare a comprehensive report on all plans received pursuant to section 472(d). The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report to the Judicial Conference during the preparation of the report. The Judicial Conference shall transmit copies of the report to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) The Judicial Conference of the United States shall, on a continuing basis—

"(1) study ways to improve litigation management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual.

"(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 and the demonstration program conducted under section 4 of the Civil Justice Reform Act of 1990.

"(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

"§ 480. Training programs

"The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

"§ 481. Automated case information

"(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

"(b)(1) In carrying out subsection (a), the Director shall prescribe—

"(A) the information to be recorded in district court automated systems; and

"(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

"(2) The uniform standards prescribed under paragraph (1)(B) shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

"(c) Each United States district court shall record information as prescribed under subsection (b).

"§ 482. Definitions

"As used in this chapter, the term 'judicial officer' means a United States district court judge or a United States magistrate.".

(b) IMPLEMENTATION.—(1) Within 3 years after the date of the enactment of this Act, each United States district court shall implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a) of this section.

(2) The requirements set forth in sections 471 through 478 of title 28, United States Code, as added by subsection (a) of this section, shall remain in effect for 7 years after the date of the enactment of this Act.

(c) EARLY IMPLEMENTATION DISTRICT COURTS.—

(1) Any United States district court that, not earlier than 6 months and not later than 12 months after the date of the enactment of this Act, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a) of this section, shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district court so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may provide such resources out of funds appropriated pursuant to section 5(a).

(3) Within 18 months after the date of the enactment of this Act, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such districts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a) of this section; and

(C) the report prepared under paragraph (3) of this subsection.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof the following:

"23. Civil justice expense and delay reduction plans ..... 471".

SEC. 4. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 3(c).

(b) PROGRAM REQUIREMENT.—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) STUDY OF RESULTS.—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) REPORT.—Not later than March 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 5. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than $15,000,000 for fiscal year 1991 to carry out the resource and planning needs necessary for the implementation of section 3(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to carry out the provisions of section 4.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

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

Mr. Speaker, H.R. 3898, the Civil Justice Reform Act, is an initiative of Senator BIDEN's, that was introduced in the House by Mr. BROOKS, Mr. FISH, Mr. MOORHEAD, and myself at Senator BIDEN's request. The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, held hearings on the bill on September 6, 1990. On September 14, it reported favorably an amendment in the nature of a substitute, and on September 18, the substitute amendment was reported favorably by the full committee.

The Civil Justice Reform Act is designed to reduce some of the cost and delay associated with civil litigation. It does so principally through the creation of advisory groups, which together with the district courts are to develop expense and delay reduction plans as a means to streamline civil case management. The bill also calls for periodic reporting by the judiciary

of cases that have had motions or trials pending longer than a specified period of time. Finally, it provides for experimentation with various case management techniques, as well as collection and dissemination of information concerning developments in case management.

There is no disagreement as to the important role that case management plays in allocating scarce judicial resources. As the judiciary becomes flooded with a steadily increasing volume of criminal cases, precious little time remains to adjudicate civil cases. It is thus critical that what time is available be managed effectively. There is likewise no disagreement as to the importance of reducing unnecessary litigation costs. To the extent that excessive discovery costs, attorneys fees, and related costs make litigation an option available only to the very wealthy, access to justice has, in a very real sense, been denied.

As originally introduced, this legislation met with considerable resistance from the judiciary. The bill was opposed by the Judicial Conference and the Federal Judges Association, and I have received numerous letters from individual judges and members of this body writing on behalf of judges in their districts, expressing deep reservations with the legislation introduced in the House and with companion legislation reported out of the Senate Committee on the Judiciary. While the judiciary is prepared to accept the responsibility of formulating expense and delay reduction plans in coordination with local advisory groups, it has opposed a section of the bill requiring each plan to include six specific components. In the judges' view, such a requirement would constitute micromanagement, and they urged that the contents of the expense and delay reduction plans be made discretionary. These same concerns with the bill have been echoed by the American Bar Association.

I respect the effort that Senator BIDEN has made in developing this legislation, and am optimistic that the fruit of his labors will be enacted into law. At the same time, I am sympathetic to the concerns of the judiciary, and was reluctant to require that district courts implement specific case management guidelines which the judges believe are overly restrictive and sometimes unnecessary.

Accordingly, at subcommittee, I offered an amendment in the nature of a substitute to H.R. 3898, that preserved the essential features of Senator BIDEN's legislation, but was at the same time unobjectionable to the judicial conference. The amendment that I offered retained the six components of expense and delay reduction plans but made their inclusion discretionary with the district courts. The result is a bill which satisfies the concerns raised by the federal judiciary and the American Bar Association, and is deserving of your support.

In closing, I would like to thank the gentleman from California [Mr. MOORHEAD] for his unflagging cooperation in processing this bill. I urge your support for H.R. 3498.

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

Mr. Speaker, I rise in support of H.R. 3898 and would like to commend the gentleman from Wisconsin [Mr. KASTENMEIER] on bringing the text of a Civil Justice Reform Act before this House of Representatives. The time constraints and various pressures that he and the committee have operated under have been considerable and to bring this important issue to the House reflects highly on his deep concerns for civil justice.

Last January the gentleman from Wisconsin and I joined as cosponsors on H.R. 3898, the Civil Justice Reform Act introduced by our chairman, the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. FISH] which was the counterpart to a bill introduced in the other body. Since that time an enormous amount of discussion has occurred in the legal community over nearly every aspect of that bill. Nobody challenges the goals of the bill; namely, to cut cost and delay in civil litigation. However, the bill has engendered strong feelings from bench and bar as to whether some of the provisions of the bill are needed and whether the bill has unduly intruded into the procedural workings that should uniquely be within the domain of the judiciary.

Through very productive negotiations between the other body and the judicial branch the bill has been improved. Despite these improvements, the Judicial Conference at our hearings on September 6, 1990 through testimony delivered by Judge Robert Peckham of the northern district of California, still felt that it could not endorse the legislation. What his testimony all boiled down to was that this was good legislation but to impose every aspect of it on the judicial branch simply could not work. The Department of Justice also expressed some constitutional concerns about the separation of powers. The committee's substitute will take away the mandatory nature of those provisions of the bill, which will also remove the opposition of our Federal judges and the Judicial Conference. This is important legislation and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, as an original cosponsor of H.R. 3898, I have followed its progress with considerable interest. Given the pressures that a litigious society continues to place on the administration of justice in the Federal courts, it is important that Congress recognizes the pressing need for procedural reform. We need an expedited discovery process, firm trial dates and the expanded use of alternative dispute resolution mechanisms.

But, the basic issue boils down to whether the provisions contained in H.R. 3898 should be made mandatory for each judiciary district. I know that many of our colleagues in the other body feel strongly that, to be effective, H.R. 3898 must be made mandatory. They may well be right. I think the subcommittee chairman and the ranking Republican have made the right decision in opting to keep the legislation alive, rather than forcing a confrontation with the Federal judiciary on this matter. This is important legislation and hopefully we can work out our differences with the other body in conference. I urge the adoption of H.R. 3898.

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

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

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3898, the bill just passed.

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

There was no objection.

COPYRIGHT AMENDMENTS ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5498) to amend title 17, United States Code, relating to computer software, fair use, and architectural works, as amended.

The Clerk read as follows:

H.R. 5498

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1990".

TITLE I—COMPUTER SOFTWARE

SEC. 101. SHORT TITLE.

This title may be cited as the "Computer Software Rental Amendments Act of 1990".

SEC. 102. RENTAL OF COMPUTER PROGRAMS.

Section 109(b) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

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

"(b)(1)(A) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution. The transfer of possession of a lawfully made copy of a computer program by a nonprofit educational institution to another nonprofit educational institution or to faculty, staff, and students does not constitute rental, lease, or lending for direct or indirect commercial purposes under this subsection.

"(B) This subsection does not apply to—

"(i) a computer program which is embodied in a machine or product and which cannot be copied during the ordinary operation or use of the machine or product; or

"(ii) a computer program embodied in or used in conjunction with a limited purpose computer that is designed for playing video games and may be designed for other purposes.

"(C) Nothing in this subsection affects any provision of chapter 9 of this title.

"(2)(A) Nothing in this subsection shall apply to the lending of a computer program for nonprofit purposes by a nonprofit library, if each copy of a computer program which is lent by such library has affixed to the packaging containing the program a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

"(B) Not later than three years after the date of the enactment of the Computer Software Rental Amendments Act of 1990, and at such times thereafter as the Register of Copyright considers appropriate, the Register of Copyrights, after consultation with representatives of copyright owners and librarians, shall submit to the Congress a report stating whether this paragraph has achieved its intended purpose of maintaining the integrity of the copyright system while providing nonprofit libraries the capability to fulfill their function. Such report shall advise the Congress as to any information or recommendations that the Register of Copyrights considers necessary to carry out the purposes of this subsection."; and

(3) by striking paragraph (4), as redesignated by paragraph (1) of this section, and inserting the following:

"(4) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of paragraph (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

SEC. 103. PUBLIC DISPLAY OF ELECTRONIC VIDEO GAMES.

Section 109 of title 17, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding the provisions of sections 106(4) and 106(5), in the case of an electronic audiovisual game intended for use in coin-operated equipment, the owner of a particular copy of such a game lawfully made under this title, is entitled, without the authority of the copyright owner of the game, to publicly perform or display that game in coin-operated equipment, except that this subsection shall not apply to any work of authorship embodied in the audiovisual game if the copyright owner of the electronic audiovisual game is not also the copyright owner of the work of authorship.".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) PROSPECTIVE APPLICATION.—Section 109(b) of title 17, United States Code, as amended by section 102 of this Act, shall not affect the right of a person in possession of a particular copy of a computer program, who acquired such copy before the date of the enactment of this Act, to dispose of the possession of that copy on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before such date of enactment.

(c) TERMINATION.—The amendments made by section 102 shall not apply to rentals, leasings, or lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring on or after October 1, 1997.

SEC. 105. RECORDATION OF SHAREWARE.

(a) IN GENERAL.—The Register of Copyrights is authorized, upon receipt of any document designated as pertaining to computer shareware and the fee prescribed by section 708 of title 17, United States Code, to record the document and return it with a certificate of recordation.

(b) MAINTENANCE OF RECORDS; PUBLICATION OF INFORMATION.—The Register of Copyrights is authorized to maintain current, separate records relating to the recordation of documents under subsection (a), and to compile and publish at periodic intervals information relating to such recordations. Such publications shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(c) DEPOSIT OF COPIES IN LIBRARY OF CONGRESS.—In the case of public domain computer shareware, at the election of the person recording a document under subsection (a), 2 complete copies of the best edition (as defined in section 101 of title 17, United States Code) of the computer shareware as embodied in machine-readable form may be deposited for the benefit of the Machine-Readable Collections Reading Room of the Library of Congress.

(d) REGULATIONS.—The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions of the Register under this section. All regulations established by the Register are subject to the approval of the Librarian of Congress.

TITLE II—ARCHITECTURAL WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Architectural Works Copyright Protection Act".

SEC. 202. DEFINITIONS.

(a) ARCHITECTURAL WORKS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "anonymous work" the following:

"An 'architectural work' is the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.".

(b) BERNE CONVENTION WORK.—Section 101 of title 17, United States Code, is amended in the definition of "Berne Convention work"—

(1) in paragraph (3)(B) by striking "or" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) in the case of an architectural work embodied in a building, such building is erected in a country adhering to the Berne Convention.".

SEC. 203. SUBJECT MATTER OF COPYRIGHT.

Section 102(a) of title 17, United States Code, is amended—

(1) in paragraph (6) by striking "and" after the semicolon;

(2) in paragraph (7) by striking the period and inserting "; and"; and

(3) by adding after paragraph (7) the following:

"(8) architectural works.".

SEC. 204. SCOPE OF EXCLUSIVE RIGHTS IN ARCHITECTURAL WORKS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding at the end the following:

"§ 120. Scope of exclusive rights in architectural works

"(a) PICTORIAL REPRESENTATIONS PERMITTED.—The copyright in an architectural work that has been constructed does not include the right to prevent the making, distributing, or public display of pictures, paintings, photographs, or other pictorial representations of the work, if the building in which the work is embodied is located in or ordinarily visible from a public place.

"(b) ALTERATIONS TO AND DESTRUCTION OF BUILDINGS.—Notwithstanding the provisions of section 106(2), the owners of a building embodying an architectural work may, without the consent of the author or copyright owner of the architectural work, make or authorize the making of alterations to such building, and destroy or authorize the destruction of such building.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following:

"120. Scope of exclusive rights in architectural works.".

(2) Section 106 of title 17, United States Code, is amended by striking "119" and inserting "120".

SEC. 205. PREEMPTION.

Section 301(b) of title 17, United States Code, is amended—

(1) in paragraph (2) by striking "or" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; or"; and

(3) by adding after paragraph (3) the following:

"(4) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).".

SEC. 206. EFFECTIVE DATE.

The amendments made by this title apply to—

(1) any architectural work created on or after the date of the enactment of this Act; and

(2) any architectural work that, on the date of the enactment of this Act, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under title 17, United States Code, by virtue of the amendments made by this title, shall terminate on December 31, 2002, unless the work is constructed by that date.

TITLE III—VISUAL ARTISTS RIGHTS

SECTION 301. SHORT TITLE.

This Title may be cited as the "Visual Artists Rights Act of 1990".

SEC. 302. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is—

"(1) a painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of two hundred or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or

"(2) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

A work of visual art does not include—

"(A)(i) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;

"(ii) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(iii) any portion or part of any item described in clause (i) or (ii);

"(B) any work made for hire; or

"(C) any work not subject to copyright protection under this title.".

SEC. 303. RIGHTS OF ATTRIBUTION AND INTEGRITY.

(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.— Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work as described in paragraph (3); and

"(3) subject to the limitations set forth in section 113(d), shall have the right to prevent any destruction, distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and which is the result of an intentional or negligent act or omission with respect to that work, and any such destruction, distortion, mutilation, or modification of that work is a violation of that right.

"(b) SCOPE AND EXERCISE OF RIGHTS.—Only the author of a work of visual art has the rights conferred by subsection (a) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are coowners of the rights conferred by subsection (a) in that work.

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification was the result of gross negligence in maintaining or protecting the work.

"(2) The modification of a work of visual art which is the result of conservation, or of the presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(3) The rights described in paragraphs (1) and (2) of subsection (a) shall not apply to any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in subparagraph (A) or (B) of the definition of 'work of visual art' in section 101, and any such reproduction, depiction, portrayal, or other use of a work is not a destruction, distortion, mutilation, or other modification described in paragraph (3) of subsection (a).

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author and fifty years after the author's death.

"(2) With respect to works of visual art created before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of interstate succession, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) In the case of a joint work prepared by two or more authors, the rights conferred by subsection (a) shall endure for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

"(4) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) Except as provided in paragraph (2), the rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.

"(2) After the death of an author, the rights conferred by subsection (a) on the author, and the authority of the author to waive those rights under paragraph (1) of this subsection, shall vest in the person to whom such rights pass by bequest of the author or by the applicable laws of interstate succession.

"(3) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any copy of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 304. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1) In a case in which—

"(A) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(B) the author or, if the author is deceased, the person described in section 106A(e)(2), consented to the installation of the work in the building either before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, or in a written instrument executed on or after such effective date that is signed by the owner of the building and the author or such person and that specifies that installation of the work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section

106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author or, if the author is deceased, the person described in section 106A(e)(2), of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice in writing and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith attempt to send notice if the owner sent such notice by registered mail to the author or, if the author is deceased, to the person described in section 106A(e)(2), at the most recent address, of the author or such person, that was recorded with the Register of Copyrights pursuant to paragraph (3). If the work is removed at the expense of the author or the person described in section 106A(e)(2), title to that copy of the work shall be deemed to be in the author or such person, as the case may be.

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, or the person described in section 106A(e)(2) with respect to that work, may record their identities and addresses with the Copyright Office. The Register shall also establish procedures under which any such author or person may update the information so recorded, and procedures under which owners of buildings may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 305. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990; or

"(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art.".

SEC. 306. INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118" the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO SUIT AND CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or" after "other than".

SEC. 307. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

SEC. 308. STUDIES BY COPYRIGHT OFFICE.

(a) STUDY ON WAIVER OF RIGHTS PROVISION.—

(1) STUDY.—The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report on the progress of the study conducted under paragraph (1). Not later than 5 years after such date of enactment, the Register of Copyrights shall submit to the Congress a final report on the results of the study conducted under paragraph (1), and any recommendations that the Register may have as a result of the study.

(b) STUDY ON RESALE ROYALTIES.—

(1) NATURE OF STUDY.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(A) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(B) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(2) GROUPS TO BE CONSULTED.—The study under paragraph (1) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this subsection.

SEC. 309. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this Act and the amendments made by this Act take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to—

(1) works created before the effective date set forth in subsection (a) but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of intestate succession, and

(2) works created on or after such effective date,

but shall not apply to any destruction, distortion, mutilation, or other modification (as described in section 106A(a)(3) of such title) of any work which occurred before such effective date.

(c) SECTION 8.—Section 8 takes effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, this afternoon I bring before the House the bill, H.R. 5498, the Copyright Amendments Act of 1990, for purposes of passage. This omnibus copyright reform measure includes two titles, both of which were fully considered by my subcommittee: the Subcommittee on Courts, Intellectual Property, and the Administration of Justice. All in all, H.R. 5498 is a significant piece of intellectual property legislation. A copy of the House report, which explains the bill in great detail, has been made available to the Members.

At the outset, I would like to express appreciation to the members of my subcommittee, particularly the ranking minority member, Mr. MOORHEAD, Mr. SYNAR for his work on computer software rental, and the ranking minority member of the full committee, Mr. FISH.

Let me briefly describe the bill.

Title I relates to computer software rental and owes its genesis to a bill, H.R. 2740, originally introduced by Mr. SYNAR.

Computers have become commonplace in government, our homes and offices, and business enterprises. Software—the technology that makes computers work—is of pivotal importance to the United States, which is the world's leader in this unique form of creativity.

We do not write on a clean legal slate. In 1980 Congress—through efforts of my subcommittee—amended the copyright law to provide a definition of computer program, while at the same time adding certain limita-

tions on computer program copyright owners' rights to protect the public interest. In 1984 we passed legislation crafted by this subcommittee that created a freestanding, or sui generis, protection of 10 years' duration for mask works. As a result of the reciprocity provisions in section 914 of this legislation, the U.S. law became the model for semiconductor chip laws throughout the world. Additionally, in 1984, in response to evidence that the record industry was threatened by rental of phonorecords, we prohibited the direct or indirect commercial rental of phonorecords, while preserving the rights of nonprofit libraries to lend phonorecords to the public.

Last Congress, the United States took a giant step forward in its international intellectual property relations by adhering to the Berne Convention for the Protection of Literary and Artistic Works, the world's premier copyright convention. Adherence was made possible by implementing legislation carefully drafted by my subcommittee after 2 years of hearings.

Earlier this Congress my subcommittee held 2 days of oversight hearings on computers and intellectual property. On July 30, 1990, we had a legislative hearing on computer software and first sale reform. The record of these hearings and the proposed legislation reveal that computer software is not readily pigeonholed as certain literary works—novels and short stories, for example—in our copyright law. Indeed, H.R. 5498 proceeds on the assumption that for purposes of rental software is more analogous to sound recordings. Whatever the analogy—and there are many false ones floating around—my subcommittee will continue during the next Congress to examine the questions that are raging internationally and domestically about intellectual property protection for computer programs.

In short, the work of my subcommittee over the past decade has been intense, focusing on both international considerations, and domestic problems resulting from the continuing introduction of new technologies. Title I of H.R. 5498, like the 1984 Record Rental Amendment, is directed toward a particular domestic problem: the effect that rental of copyright computer programs has on the sales market for such programs. Section 109 of the Copyright Act, which codifies the so-called first sale doctrine, forms the legal basis for resolving the problem.

The first sale doctrine is one of the most important limitations on copyright owners' exclusive rights. Under this doctrine, the owner of a lawfully made copy of a copyrighted work is entitled to sell or otherwise dispose of that copy and to display the copy publicly without the copyright owner's permission. It is this provision in the copyright law that permits a student who purchases an anthology of poetry for a literature class to sell that anthology to a secondhand bookstore, which may in turn sell the copy to the public. A grocery store may purchase copies of video cassettes and rent those copies to its customers. A museum may display a painting it purchases from an art dealer.

Legislation to reform the first sale doctrine frequently arises from a collision course between intellectual property law and technological change, and computer programs are found on this path.

My subcommittee worked hard to reduce definitional uncertainties in the bill and to make other improvements. A substitute amendment was approved to narrow the scope of the proposed legislation, to protect educational activities, establish a shareware recordation system in the Copyright Office, and clarify the right to play video games in public places. The rental reform is subjected to a 7-year legislative sunset.

Title I is supported by the administration, the Copyright Office, and the Software Publishers Association.

The purpose of title II is to amend the Copyright Act in order to protect works of architecture, thereby placing the United States in full compliance with its multilateral treaty obligations as specified in the Berne Convention for the Protection of Literary and Artistic Works. This is accomplished by creating a new category of copyright subject matter for the constructed design of buildings. Title II has received the strong support of the administration, the Copyright Office, the Frank Lloyd Wright Foundation, and the American Institute of Architects.

Title II—which finds its roots in a bill that I introduced (H.R. 3990) with Mr. MOORHEAD—reflects the testimony of witnesses at the hearing held on March 14, 1990 by the subcommittee. It is a consensus piece of legislation without known opposition. Among the many important provisions in title II are those included by the subcommittee to protect the interests of homeowners and the real estate industry. For example, the bill permits owners of buildings embodying a copyrighted architectural work to alter the building in any way, including destroy it. Similarly, the bill ensures that State and local zoning and landmark laws are not preempted. I am pleased to announce that architects, in a spirit of cooperation, agreed to both of these amendments.

Architecture plays a central role in our daily lives, not only as a form of shelter or investment, but also as a work of art. Title II pays appropriate homage to this important art form, and I urge your support of it.

I do want to mention former title II of H.R. 5498, as introduced, which sought to reform the "fair use" doctrine, codified in section 107 of the Copyright Act, as regards unpublished works. By amendment in subcommittee, I deleted title II from the bill as not having adequately jelled. I had hoped that an agreement could be reached between interested parties—authors, publishers and the computer industry—but unfortunately this did not occur. This is an issue of great concern, not only to me, but to authors and publishers as well. Although there are indications that the Federal courts are evolving their approach to the use of unpublished material, this remains an important policy issue for the Congress.

We have added a new title to H.R. 5498. I am pleased to have my colleagues' support on adding the Visual Artists Rights Act. The Visual Artists' Rights Act of 1990 has already passed the House, and we are now adding it to the copyright bill before us. The language of this title is exactly the same as the bill that has previously passed the House and has sent to the Senate.

In conclusion, H.R. 5498 is worthy of your undivided support. I urge an affirmative vote.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I would like to commend the gentleman from Wisconsin. [Mr. KASTENMEIER] and the gentleman from Oklahoma [Mr. SYNAR] for their leadership in bringing H.R. 5498 to the floor.

Intellectual property accounts for a very large share of American exports. But because these works are inadequately protected in many parts of the world, the U.S. international trade commission estimates that copyright holders lose almost $25 billion a year in income. Losses suffered by writers, artists, computer software creators, and others are important not only to those individuals but to the country as well, because they affect the balance of trade. Royalties paid to the U.S. film and video industry alone, for example, account for a net $1 billion surplus in the balance.

The potential loss to the U.S. economy should the rental of software become anymore widespread can be seen clearly when we look to the losses suffered by the U.S. software developers by virtue of their inability to restrict commericial copying of their products in many foreign market. The office of the U.S. Trade Representative has estimated losses to U.S. software developers due to inadequate copyright protecton to be approximately $4.1 billion a year.

Section 103 of title I is very narrowly drawn to apply only to the videogames

that are sold exclusively for use in arcades. The committee by amendment made clear that it would not apply to other copyrighted works, for example, motion pictures, records, or books.

I also want to commend the gentleman from Wisconsin for his support on title II, a design protection bill. I believe that given the opportunity, we can make a strong case for limited protection of certain other types of design.

Architectural design is an important area where I think Congress needs to make a statement to bring this more in line with the Berne Treaty. This legislation has been carefully crafted to ensure that title II, in no way, incorporates directly or indirectly, so-called moral or noneconomic rights into the Copyright Act.

I believe that at a minimum we should provide the equivalent kind of protection to our American designers and architects as is provided to their counterparts in foreign countries.

At the same time this legislation is sensitive to long established practices and traditions among architects and others in the building industry.

I urge support for H.R. 5498.

Mr. Speaker, I yield such time as he may consume to our ranking member, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I would like to commend the gentleman from Wisconsin and the gentleman from California for their work on this legislation—which is intended to provide much needed protection for the computer software industry and the designers of architectural works.

The explosion in the development and use of computers and computer programs has given rise to legitimate concerns about protecting the intellectual property rights of the software creators and manufacturers. Widespread illegal copying of programs, facilitated through inexpensive rentals, will seriously damage software producers' revenue base and reduce the financial incentive to create new programs. It is important to note that the United States currently holds 70 percent of the world market in software sales. So, there is a significant balance of trade aspect to this problem as well.

In the wake of the Berne adherence legislation of the last Congress, we asked the Copyright Office to conduct a study of the architectural works protection issue. In response, the Register of Copyrights concluded that while architectural blueprints, plans, drawings, and models are adequately protected by U.S. copyright law, the adequacy of protection under Berne convention standards for the constructed design of architectural structures remains in doubt. Title II of H.R. 5498 places the United States unequivocally in compliance with its Berne obligations.

Mr. Speaker, this is needed legislation and we are acting quickly here today to prevent what could become a serious problem for the computer and architectural design industries.

I urge support for H.R. 5498.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the author of the original software computer rental provisions, the gentleman from Oklahoma [Mr. SYNAR], a member of the committee.

Mr. SYNAR. Mr. Speaker, the impetus for changes in copyright law occur primarily because of economic and technological change. Restricting consumer access to copyrighted materials should be done only in cases where the testimony and documentation establishes a number of cumulative facts which mandate the change. With respect to the computer software covered by this bill, however, I have been persuaded that the case has been made for these restrictions.

Having been around for the debate both on audio and video works, I am conscious of the need for careful consideration and for the need of an adequate record which justifies such a change. The software industry is faced with a threat similar to that faced by the record industry 5 years ago. Copying of software packages is even more easily accomplished than that of records and could seriously damage the computer industry and reduce innovation in this critical industry.

This bill addresses this problem while taking into account the needs of the educational and library community to have access to these materials. I urge you to support H.R. 5498.

Mr. MARKEY. Mr. Speaker, the bill before us today, H.R. 5498, includes a title that incorporates H.R. 2690, the Visual Artists' Rights Act of 1990. This is a new milestone for American artists which has reached the House floor only through the hard work of many people. As the original sponsor of H.R. 2690, I would particularly like to commend the gentleman from Wisconsin, Chairman KASTENMEIER, for his assiduous work on the legislation as well as the ranking minority member of the subcommittee, Representative MOORHEAD. I am proud to have both Chairman KASTENMEIER and Representative MOORHEAD as cosponsors of the legislation.

I first introduced the Visual Artists' Rights Act in the 100th Congress in order to fill a gap in copyright law by recognizing that artists who work in painting, drawing, and sculpture are intellectual authors who deserve protection for their works, just as do authors of novels, plays, and songs. This was the House companion to S. 1619, introduced by Senator KENNEDY.

The issue of visual artists' rights has come of age in America. As the art historian Helen Gardner said:

A work of art * * * is a form created by the artist out of human experience. At the same time it has a cultural context. It exists in time, and its form reflects the forces of that time—social, economic, political, and religious.

Or, more concisely, Harold Clurman once stated:

Man is in this world to do more than pay taxes and brush his teeth—and that is where the arts come in * * *.

There is an unfortunate problem, however, in that too often a work is treated simply as a physical piece of property, rather than as an intellectual work, like a novel. But artworks are intellectual expressions, not just physical property. It is time that visual artists receive the fundamental copyright protection for the integrity of their work already provided to authors.

Indeed, it is paramount to the very integrity of our culture that we preserve the integrity of our art works as expressions of the creativity of the artist. This bill recognizes that title to the soul of an art work does not pass with the sale of the art work itself.

The Visual Artists' Rights Act would give artists the right to claim authorship of their works; to disclaim authorship of a distorted or mutilated work; and to bring a civil copyright claim for willful destruction or mutilation of their works. This bill precisely defines the types of art works that will be covered, extending legal protections to include limited editions of 200 copies or fewer of paintings, drawings, prints, scultures, and still photographs. Furthermore, this bill explicitly excludes from coverage any motion picture, video or other audio-visual work, poster, periodical, book, electronic publication, advertising item, or any work made for hire.

The bill now differs from the one that I introduced in the 100th Congress in one significant respect in that it calls for a feasibility study of resale royalties for certain works of art instead of a resale royalty provision. This represents a compromise to meet previous objections and permits this artists rights legislation to proceed without controversy. The House passed H.R. 2690 earlier this year on suspension, and is being offered again today in the hope that we may expedite Senate consideration of this legislation in the few days remaining in this Congress.

In 1987, at the time I first offered the bill, an example of irretrievable and irreparable damage had recently occurred—damage which passage of the bill we are discussing today will protect against.

Two mail-order entrepreneurs bought a Picasso print entitled "Three Women." They cut this Picasso into 500 pieces, each 1-inch square, to be sold at $135 apiece, complete with a certificate of authenticity and a 30-day money back guarantee. They placed newspaper ads which read:

Yes, your very own beautiful framed Picasso piece, in the most original and exciting offer * * * and you can own a piece of the work yourself.

One of these entrepreneurs was quoted as saying:

If this thing takes off, we may buy other masters as well and give them the chop.

We don't want profiteers roaming the world giving artistic masterpieces the chop.

Unquestionably, none of us would like to see our name attached to intellectual works presented to the public in an altered or muti-

lated form. This is the moral standard that H.R. 2690 upholds.

The legislation addresses this gap in copyright law by recognizing that, as original expressions of the artists' creativity, works of visual fine art embody intellectual property which can and should be protected by copyright law.

A work of art is not a utilitarian object like a toaster. It is an intellectual work like a song, a novel or a poem. We must not permit the connection between the artist and his or her work to be severed the first time the work is sold.

It is important to realize that moral rights laws already have been enacted in several States, including California, New York, Massachusetts, and others, thereby already affecting the major art markets of New York, Boston, and Los Angeles.

However, copyright protection is properly a matter for the Federal Government, and Federal law on moral rights would be far preferable to a hodge-podge of State statutes.

In fact, as of March 1, 1989, the United States joined the Berne Convention for the protection of literary and artistic works. As a result, copyright in the works of U.S. authors are now protected automatically in all member nations of the Berne union. Similarly, works of foreign authors who are nationals of a Berne union country and works first published in a Berne union country are automatically protected in the United States.

Because our adherence to the Berne Convention does not specifically incorporate visual artists rights, I believe it is all the more appropriate and timely to enact Federal legislation establishing these rights for visual artists.

It is also important to recognize that this legislation is limited to a class of copyrighted works that is unique and clearly distinguishable from every other class of copyrighted material. The specific language of the bill addresses only works of which there is no multiplicity. Thus, the bill is not applicable to forms such as video tapes, for the damage to one tape ruins only that particular copy.

In the last part of the 20th century, the United States has become the financial, political, and intellectual capital of the world. We also have become the arts capital of the world. With that leading status comes the responsibility for fostering, protecting and encouraging the arts. As Hugh Trevor Roper said:

Art and literature are the true witness of all history that is worth preserving: they are the spiritual deposit which reminds us that we are the heirs of a living civilization.

I believe that the bill before you is a solid step in that direction, and I urge your support.

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

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

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER] that the House suspend the rules and pass the bill (H.R. 5498), 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.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 198), to amend title 17, United States Code, the Copyright Act to protect certain computer programs.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Computer Software Rental Amendments Act of 1989".

SEC. 2. Section 109(b) of title 17, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(b)(1)(A) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any program any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the natural of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes, by a nonprofit library or nonprofit educational institution. The transfer of possession of a lawfully made copy of a computer program by a nonprofit educational institution to another nonprofit educational institution or to faculty, staff and students does not constitute rental, lease or lending for direct or indirect commercial purposes under this Act.

"(B) The term 'computer program', for purposes of this subsection, does not include any computer program embodied in electronic circuitry which is contained in, or used in conjuction with, a limited purpose computer designed primarily for playing home video games.";

(2) redesignating paragraphs (2) and (3), as paragraph (3) and (4), respectively;

(3) inserting between paragraph (1) and paragraph (3), as redesignated herein, the following:

"(2)(A) Nothing in this subsection shall apply to the lending of a computer program by a nonprofit library, providing that each copy of a copyrighted computer program which is lent by such library shall have affixed to the packaging containing the program the following notice:

"WARNING: THIS COMPUTER PROGRAM IS PROTECTED UNDER THE COPYRIGHT LAW. MAKING A COPY OF THIS PROGRAM WITHOUT PERMISSION OF THE COPYRIGHT OWNER IS PROHIBITED. ANYONE COPYING THIS PROGRAM WITHOUT PERMISSION OF THE COPYRIGHT OWNER MAY BE SUBJECT TO PAYMENT OF UP TO $100,000 DAMAGES AND, IN SOME CASES, IMPRISONMENT FOR UP TO ONE YEAR.

"(B) Three years after the effective date of this paragraph, and at such times subsequently as he or she may deem appropriate, the Register of Copyrights, after consultation with representatives of copyright owners and librarians, shall submit to the Congress a report stating whether the provisions of this paragraph have achieved the intended purpose of maintaining the integrity of the copyright system while providing nonprofit libraries the capability to fulfill their function. Such report shall advise the Congress as to any information or recommendations the Register of Copyrights shall deem necessary to effectuate the purposes of this Act."; and

(4) amending paragraph (4) to read as follows:

"(4) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASTENMEIER moves to strike out all after the enacting clause of the Senate bill, S. 198, and to insert in lieu thereof the text of H.R. 5498, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 17, United States Code, relating to computer software, fair use, and architectural works."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5498) was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. 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. 5498 and S. 198, the bills just passed.

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

There was no objection.

RADIATION EXPOSURE COMPENSATION ACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the

Senate amendment to the bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that is presumed to have generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were involuntarily subjected to increased risk of injury and disease to serve the national security interests of the United States.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 22 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

(a)(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years of first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive $50,000 if—

(A) initial exposure occurred prior to age 21,

(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive $50,000 if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Piute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was between 2 and 30 years of first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of: the thyroid (provided initial exposure occurred by the age of 20), female breast (provided initial exposure occurred prior to age 40), esophagus (provided low alcohol consumption and not a heavy smoker), stomach (provided initial exposure occurred before age 30), pharynx (provided not a heavy smoker), small intestine, pancreas (provided not a heavy smoker and low coffee consumption), bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) ELIGIBILITY OF INDIVIDUALS.—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, Wyoming, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and cancer incidence occurred before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of cancer incidence, and submits written medical documentation that he or she, after such exposure, developed lung cancer; or

(2)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and the nonmalignant respiratory disease developed before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of disease incidence, and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease,

shall receive $100,000, if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

(3) the term "nonmalignant respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and corpulmonale related to fibrosis of the lung; and if the claimant, whether Indian or non-Indian, worked in an uranium mine located on or within an Indian Reservation, the term shall also include moderate or severe silicosis or pneumoconiosis; and

(4) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS.

A claim to which this Act applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than $5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 12. REPORT.

(a) The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

(b) Such report shall be completed not later than September 30, 1992.

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

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

We are revisiting this bill. The House passed it earlier this year. The Senate took it up, made some changes,

and it is now back from the Senate. The Senate version was a compromise involving several Members in the Senate. It is the judgment of those who care strongly about this bill that given the inherent difficulty of passing anything through the U.S. Senate, it would be well for Members to concur and not send it back. That is what we propose to do. The differences are not major. The principles remain the same.

This first came to my attention at a conversation I had with the gentleman from Utah [Mr. OWENS], who sits here and who will be speaking, and who has been on this side and I believe in the Congress as a whole, the major proponent of this bill. He was the one who called my attention to it, and marshaled the evidence that convinced all Members that an injustice had been done. Not out of intent, but an injustice had been done, to two groups of people.

□ 1430

One group was miners who provided uranium when this country very much needed it for its national security from 1947 to 1971. They were sent into the mines without even the slightest protection against the material they were being forced to mine—not forced, they were there voluntarily to earn a living, but that they were being asked to mine.

Second, we have people who lived in areas very close to nuclear testsites. We now know that nuclear radiation can be dangerous. Earlier we did not know. At some point we probably knew and were not acting on the information in sufficient time, American citizens going about their business of living, working, raising families, were exposed to radiation in degress that we would not allow now.

I should point out that in both cases we are dealing with groups of people who would not by today's standards be treated anything like this.

This is an example of what we do from time to time, and I think it is something of which we should be proud. We admit mistakes. We are a great Nation, a Nation that is the envy of most of the rest of the world, and justly so, but we are not a perfect society and from time to time we make mistakes.

We are here saying that as a Nation in the dangerous and difficult postwar period confronted with a brandnew technology, feeling very much threatened, needing that technology, we felt, I think accurately for our defense, we acted hastily. We acted with insufficient knowledge, and as a result many of our fellow citizens became ill. That was not a malign act on the part of anybody, but it is an act which we as a just and gracious society ought to try to remedy the best that we can. Obviously we can never restore people's health that was lost.

This legislation, after careful discussion and negotiation, essentially says if you can show that you were in the mines, if you can show that you were downwind from the radiation and you now have certain illnesses, we are prepared to compensate you.

There are details, not everyone is happy entirely with it, I have had conversations with the administration that indicate that while they preferred in some ways what we did, are prepared to accept this. A number of Members participated. A number of Members called it to our attention. I think it was the gentleman from Wyoming who first called to our attention the justice of including this own State. We were pleased when he pointed that out to concur. That is one of the amendments the Senate made, to include Wyoming. We have done that.

This is a bill that I think speaks to the essential fairness of this society. It recognizes that we made mistakes 40 years ago or more in our haste and in our sense of insecurity dealing with a new technology, and we are doing what I think is a compassionate thing.

We should note that among those who were most heavily impacted by this in the mining areas, particularly the Navajo Indians, they very patriotically responded to this Nation's need and we think it is only fair that today we recognize what they have done.

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

Mr. Speaker, I rise in support of H.R. 2372, the Radiation Exposure Compensation Act. Although the version of the bill before us today varies slightly from that which was passed by the House on June 5, I believe that it represents an effective compromise. Therefore, I intend to continue suit and support this legislation here today as I have in the past.

Mr. Speaker, I realize that this bill, as amended by the Senate, does include additional requirements for compensation. In this light, I would like to commend our colleagues in the Senate for their attempt to address the lack of a requirement for proof of causation in the original House-passed bill. As many of you know, I, too, had some difficulty with the vagueness in the House-passed bill for this very reason. And while the amended version seeks to include new eligibility requirements for coverage, as well as additional specific requirements for six of the diseases, I do not believe that it fails to recognize those individuals who were sacrificed in the name of our national security. Mr. Speaker, H.R. 2372 as amended continues to represent a compassionate response from our Government.

I firmly believe that the time has come for our Government to recompense those who were affected by the nuclear testing in the West as well as those who were affected by working in the uranium mines to provide this Nation with uranium for its defense efforts. While this legislation cannot undo the damage, I believe that H.R. 2372 is a step in the right direction. Therefore, I will support this bill and look forward to its speedy enactment.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS], who has been not only the main sponsor of this bill, but its most faithful and skillful advocate.

Mr. OWENS of Utah. Mr. Speaker, I am very grateful that this moment has arrived and very grateful to the committee chairman, the gentleman from Massachusetts [Mr. FRANK] who undertook to complete this bill, when he first came to understand the gross inequities and injustices that it addresses, and to Chairman BROOKS as well and to the gentleman from Florida [Mr. JAMES], I express my genuine appreciation.

I have prepared remarks which I will insert in the RECORD.

I undertook 12 years ago as an attorney to represent the people whose wrongs are addressed in this bill. It has been an amazing experience to win a case in court at the district level and then be turned down on appeal because the Government does not deal with these kinds of injustices, so the court said, under the Federal Tort Claims Act.

We inherited, of course, sovereign immunity from England, from Great Britain, and this is one of the oddities still in the law, that here we find causation by negligence of the Federal Government, but here we find that although justice cries out for redress, there is an inability under the law to provide it.

The courts in turning this case down said that there is justice needed and deserved here, but it is for the Congress to address it, rather than the courts.

So when I came to Congress 4 years ago, returned to Congress, I resigned obviously as counsel for the good people and became their advocate.

So it has been a great rewarding experience to have been able to enlist people like the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Texas [Mr. BROOKS] and many others in this cause and work closely with the junior Senator of my State, Senator HATCH, in working in legislative language which could be accepted across the board and which today with this vote we send to the President for his signature.

It has been an emotional experience, because here were the good people, the victims of the cold war. It seems so appropriate, Mr. Speaker, that as we have watched in wonder over the last

12 to 15 months at the demise of the cold war that now we come and compensate the American victims of the cold war who were the downwinders from the atomic testing and the miners who mined the uranium to fuel those bombs that were being produced. They did so willingly. The fervor of the early fifties was such that we were racing against the Soviet Union for preeminence in the atomic and nuclear fields, and these good people in southern Utah, Arizona, and Nevada, really felt that they were making a contribution, a sacrifice which was assisting their Government and they felt very patriotic about it.

I was a high school student in this area and watched these early morning blasts. I know how patriotic and helpful that the citizens felt; but the Government knew, Mr. Speaker, that these people were being poisoned by nuclear fallout. The evidence is very clear, and as the gentleman from Massachusetts has said, the increased incidence of cancer has affected the downwind victims.

Amazingly, no bomb test before we went to underground testing in 1963 and no bomb test since we went underground in 1953 has been fired when the wind was blowing anywhere except to Utah and to northern Nevada and Arizona. Whenever the wind was blowing toward California and Las Vegas, the tests were not conducted, and that principle remains in practice today. The decision was made that there are fewer people who live in this direction. Therefore, the bombs shall be in essence aimed at them.

So in very real fact, Mr. Speaker, the Federal Government made the decision to bomb the people to whom this bill makes an apology today and a compensatory payment of a small amount.

□ 1440

So it is a great experience to have been so long and so deeply involved in this legislation and to see it being passed today and to send it to the White House with an apology to these good people and with this payment, which is a compassionate payment only.

Mr. Speaker, I express again deep appreciation to the gentleman from Massachusetts [Mr. FRANK] for carrying this banner

Mr. Speaker, by all accounts, the cold war is over. But the victims of that national struggle continue to suffer. The cold war did not take lives on the steppes of Russia but it did take casualties in the deserts and uranium mines of the American West. And its combatants died and continue to die of cancers inflicted on that western battlefield.

For 11 years, from 1951 to 1962, the desert wind that swept across the mesas of Nevada, Arizona, and Utah carried with it the fallout from open air atomic testing, sowing seeds of sickness and death which were often not manifest for many years. Between 1947 and 1971, uranium miners in Utah, New Mexico, Arizona, Wyoming, and Colorado raced with patriotic fervor against the Soviet nuclear program, unknowingly working in conditions that were sure to shorten their lives. In our haste to prepare ourselves for the war no one wanted, we made involuntary sacrifices of our own people, downwinders and miners alike.

Open air atomic tests would not be conducted unless the wind was blowing away from Los Angeles and Las Vegas and that practice continues to this day with underground nuclear tests. Instead, tests are held until winds blow toward "low-use segments of the population," a dehumanizing and callous euphemism used by the Government to describe the very real people of Utah, Arizona, and Nevada. Despite the Government's repeated assurances that the radioactive cloud was harmless, certain cancers associated with radiation arose at a rate up to four times the national average.

Below the ground, absolute proof shows that uranium miners were exposed to radiation levels so high that the Federal Government knew—but did not reveal—that the radiation would cause almost certain death and disease. The Government which could have mitigated these dangerous conditions did not do so, and the predictable outcome occurred. As an Arizona Federal district court concluded:

The weight of the evidence leaves no doubt that the respiratory tract and lung cancers were caused by excessive exposure to radon in the underground uranium mines.

The House, of course has already passed this bill and already endorsed the justice of this attempt to apologize and compensate these people of the West who suffered and died as a result of our cold war mobilization. The bill that we will vote on today, as amended and passed by the Senate, deserves our complete support. I will briefly discuss the amendments the Senate made to the bill as passed by the House. The first change involves the inclusion in the bill of uranium miners from Wyoming as eligible claimants. When the bill was first introduced, only uranium miners from New Mexico, Utah, Arizona, and Colorado were included. But it recently came to our attention that there were also mines in Wyoming which supplied the Government with uranium for its nuclear programs. Other changes were made in the House version to ensure that the lung cancers and respiratory diseases for which compensation is provided are those which are most likely to have been caused by the radiation in the mines. Distinctions have been made with respect to exposure levels and whether or not the miners were smokers. Similar changes have also been included with respect to the downwinders to take into account factors such as age, duration of the exposure, and personal habits which may have influenced the onset of the disease.

Another Senate amendment changes the life of the trust fund from 6 years to 22 years, which more realistically takes into account the latency periods of some of the diseases which are covered by this legislation. Finally, the Senate has included two additional uranium-related diseases for which compensation will be available, if the miners worked in uranium mines on or within an Indian reservation. Many of these uranium miners were native Americans. Given the special trust responsibility of our Government over the activities of tribal members, it is only fair that we include compensation for these diseases. These mines were some of the earliest and most contaminated mines, not subject to any form of State regulation.

The Senate amendments make this a tighter, fairer bill, and I endorse them without reservation. Passage of this bill today will allow us to consummate this national apology with the signature of the President. A great nation must make apologies and recompense when it has wronged its people. I ask for your support as we send the Radiation Exposure Compensation Act to the White House.

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 2372, a bill to provide compensation for the radiation-related injuries suffered by individuals who were engaged in uranium mining in the southwestern United States from the early 1940's to the late 1970's. I understand when the Senate passed H.R. 2372, it amended certain provisions to strengthen what I already considered to be a good bill.

The Senate amended the bill to allow native American uranium miners to receive compensation for a couple of additional respiratory diseases—moderate or severe silicosis and pneumoconiosis. The Senate deliberation on this point is replete with the reasons justifying the provision, and I would like to take a minute to recap the essence of the Senate's justification.

The United States has a unique political relationship with American Indians that is often described also as a trust relationship. Based on Federal treaties and statutes, the United States exercises responsibility for management of mineral resources and mine safety on Indian reservations and since the early 19th century has assumed responsibility for providing health care to American Indians.

It is widely recognized that with regard to uranium mines on Indian reservations in the Southwest, the United States placed the national security interests above the health of the miners, both Indian and non-Indian. In doing so, the United States also did virtually nothing to warn them of and protect them from the harmful health hazards of employment in the mines. Further, very little was done to ensure that effective mine safety standards were developed and implemented.

The situation was aggravated by several factors. American Indian miners spoke almost no English, and had no understanding of the dangers presented by their employment. Most of these

people were and are completely dependent upon the Indian Health Service for their health care. Many of these Indian miners live in very remote areas of Arizona, New Mexico, and Utah and have trouble getting to the Indian Health Service facilities for diagnosis and treatment for illnesses that may have been caused by the mining conditions. For those that could reach the Indian Health Service facilities, pulmonary specialists were largely not available and therefore diagnoses contained in their medical records are often ambiguous.

Given the totality of the circumstances surrounding the need for this legislation, I concur with the many eloquent statements of my colleagues in the Senate who share the belief that the Federal trust relationship to native Americans, and the Federal Government's actions and inactions reflected in this bill, compel the compensation provided in the bill. These circumstances justify further that the claims of native American miners should be reviewed liberally, and that if there are any gray areas, the claims should be reviewed in favor of granting rather than denying compensation.

If I had to use one word to describe the essence of this legislation, that word would be "compassionate". It is with compassion that I support H.R. 2372 as amended by the Senate, and I urge my colleagues to do the same.

Mr. Speaker, there is an individual who is not a Member of the House of Representatives who deserves to be commended for his actions on behalf of those who will benefit from this legislation. That gentleman is a former Member of the House and former Secretary of the Interior, the brother of the current chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona, Mr. UDALL; I refer to Stewart Udall.

It was Stewart's efforts which first really brought this situation to the public eye, into the minds and consciences of the people of this country and which ultimately led us to being here on the floor earlier this year and then again today.

I just think it would be appropriate for the record, during consideration of this bill, to include recognition of the efforts of Stewart L. Udall on behalf of those who will benefit from this legislation.

Mr. FRANK. Mr. Speaker, I yield myself 30 seconds in order to thank the gentleman from Arizona for those very gracious remarks.

That was an omission on my part. I appreciate his being helpful.

Stewart Udall has been a zealot on behalf of justice here. The gentleman from Arizona was quite correct in bringing that out.

Mr. Speaker, I yield 4 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I wholeheartedly support the bill, H.R. 2372, the Radiation Exposure Compensation Act. I commend all the efforts of my respected colleague from Utah, Mr. OWENS for introducing this act which establishes a trust fund for claims for injuries and death due to exposure to radiation during certain time periods. The sources of exposure result from nuclear testing in Utah, Nevada, and Arizona; or uranium mining in Colorado, New Mexico, Arizona, or Utah.

As a life-long resident and Representative of the First District of Nevada, I am well aware of the history of the U.S. atomic weapons testing program. The Nevada test site is located a mere 65 miles from Las Vegas, and the vast majority of the more than nine thousand test site workers have their permanent resident in southern Nevada.

Unfortunately, the history of the Nevada test site has been a troubled history, particularly during the atmospheric testing program between the years 1951 to 1963. During this period, approximately 235 above-ground atomic tests were conducted in Nevada and in the Pacific Ocean, exposing hundreds of thousands of civilians and military personnel to unhealthy levels of ionizing radiation.

In testimony before Congress in 1982, Mrs. Gloria Gregerson of Bunkerville, NV, recalled here own experiences:

> The radioactive cloud, as it came over, was really distinct. It would usually come over our school campus between 9 and 10 in the morning * * *. Later the Government officials would come to our school to talk to us in assemblies, but they never came until after several blasts had already been shot off * * *. They would preface their remarks saying: "There is nothing to be alarmed about. There is nothing to hurt you, so don't worry, but wash your cars everday; wash your clothes twice before you wear them; don't eat the plants and the vegetables; don't drink the local milk," yet that is the only way we had to get milk, through our cows. I remember playing under the oleander trees * * * and the fallout was so thick it was like snow * * *. We liked to play under the trees and shake this fallout onto our heads and our bodies, thinking that we were playing in the snow * * *. Then I would go home and eat. If my mother caught me as a young child, I would wash my hands; if not, then I would eat with the fallout on my hands.

Mrs. Gregerson developed ovarian cancer at the age of 17, which later spread to her intestines and stomach and involved 13 major surgeries. After years of struggling ad many more surgeries, Mrs. Gregerson died the year following her congressional testimony, at the age of 42.

Mr. Chairman, it is time for our Government to own up to the pain and suffering it has inflicted upon its own citizens. If we are able to provide hundreds of millions of dollars to Panama and Eastern Europe, then surely it is our moral duty to provide for our own citizens who are actually victims of the only war waged on American soil this century. The downwinders, as they are called, are no different than the veterans of World War II, Korea, or Vietnam. They are the veterans of the cold war. For years their Government misled, concealed, covered up, and outright lied to them about the dangers of atomic testing. Now is the time for their Government to apologize and to make amends for their negligence and deceit.

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 2372, the Radiation Exposure Compensation Act.

I am very pleased the legislation has been amended to include Wyoming uranium miners affected by radiation. In the late 1940's underground uranium miners often worked in unventilated conditions and were exposed to high levels of radon gas. Because the Federal Government was the primary purchaser of this uranium, intended for the country's nuclear weapons program, it seems to me the Federal Government has an obligation to those miners who were exposed and unprotected to cancer-causing gas. The miners and their families have suffered greatly. This bill is necessary and must include Wyoming.

Wyoming has been one of the highest producing States of uranium in this country and we have found that there are some Wyoming citizens whose health may have been affected due to their employment as uranium miners in the time period recognized. I now feel confident that qualifying individuals from Wyoming will be covered and compensated. I particularly thank Mr. FRANK, and Mr. OWENS for their consideration of the needs in Wyoming for their willingness to work with the Wyoming delegation on this extremely important issue.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage my colleague, the gentleman from Massachusetts [Mr. FRANK], the chairman of the subcommittee which considered this legislation, in a brief colloquy, if I may, concerning the administration of the Radiation Exposure Compensation Act by the Department of Justice.

The bill establishes the radiation exposure compensation trust fund and

authorizes the appropriation of $100,000,000 to the fund. The Attorney General shall pay, from amounts available in the fund, claims which the Attorney General determines meet the requirements of this act. Administrative costs, however, shall not be paid from the fund. The Attorney General shall establish procedures whereby individuals may submit claims for payments under this act, and regulations to carry out this act shall be issued not later than 180 days after the date of the enactment of this act.

As sponsor and author of H.R. 2372, it was my intention that, notwithstanding the lack of appropriations to the fund, the Attorney General should use funds and resources presently available to the Attorney General to establish procedures for submission and review of claims. And notwithstanding the lack of appropriations to the fund, the Attorney General should adjudicate claims. I would just like to confirm that this is the gentleman's understanding as well.

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

Mr. OWENS of Utah. I yield to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman from Utah. Obviously, the actual payout would be subject to appropriation, but we from time to time give the Department of Justice tasks to carry out and we do not regularly, specifically appropriate funds for this or that administrative task. This is an obligation now of the Federal Government, a compassionate one, not one that further obligates us; but it would be legal to pay these people.

Yes, I do believe it certainly is my intention that the Justice Department would begin the administrative process with funds on hand as they do in other areas.

□ 1450

The payments will be subject to appropriation, but I do not think the processes are, and I would add that the one reason for doing that, of course, is that we are dealing here with people who may be dying. We are dealing here with a population of people that goes back 43 years, some of whom are ill. I would hope that they would do that.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume to comment in regard to the colloquy.

As I read the statute, there has been no money budgeted for the purposes of the Attorney General investigating this, and it would cut into the S&L investigation, et cetera. I do not know how that would be handled. We may wish and express our desire that, if funds are available for the purposes of proceeding in the manner that was suggested in the colloquy, it would be desirable, and hopefully that can be accomplished. But I do not see how we can suggest it is a mandate upon the Attorney General to do it until there is an appropriation because for all he would know there may never be an appropriation until this Congress acts, and we better move swiftly and quickly to make sure there is an appropriate appropriation because otherwise it does not seem that we have any leverage under the specific language we have inclusive in this statute to tell the Attorney General to do anything. Hopefully he might, but I do not want to engage in wishful thinking to suggest to the American public that there is anything included in that bill that will give us any leverage in regard to the Attorney General to litigate matters that have not yet, or to adjudicate; not litigate, but to adjudicate, matters that have not yet been the subject matter of appropriation.

Mr. FRANK. Mr. Speaker, I yield myself 2 minutes to respond by saying, first, we are not talking about litigation. We are talking here about a payout of claims that we have agreed, out of compassion, we ought to pay.

Second, it is not my sense that every time we, as a Congress, pass a law and the President signs it, which creates a task for the Justice Department, that a separate appropriation is necessary. It is not a separate appropriation for everything the Justice Department does. They get an appropriation, and they get a list of tasks. The specific payout is subject to appropriation, but getting ready for it does not do that, and I do not think anything in our prior practice suggests that they do not begin to go to work until they get a specific appropriation for each administrative task.

Mr. OWENS of Utah. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Utah.

Mr. OWENS of Utah. The legislation, if I may suggest to the gentleman from Florida [Mr. JAMES], does not provide, in fact intend, that administrative costs not be borne by the $100 million in any case and that in fact the administrative costs be covered by the regular payment for expenses which the Attorney General receives. Our concern was that the Attorney General not wait until the funds are appropriated to pay out the claims before starting this process. These people have waited now, for some of them, 30 years for this compensation. They are dying on a monthly basis, and the hope is that that administrative task can be undertaken immediately.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume in order to respond.

That is that I agree with the gentleman, that I would like to see the claims adjudicated, and I would hope that that could occur. But none of us can suspect there has been a budget item for the Attorney General to accomplish this specific purpose, and they may take the position that because there has not yet been an appropriation, that until there is that will be an act of futility until there is an appropriation. I would hope they would not take that position, and I admit, and I realize, and I am delighted, that the funds are appropriated specifically to be used for compensatory purposes in the adjudication process, and it is very clear in our bill that in no way should the administrative costs be taken out of those funds.

However, Mr. Speaker, I can imagine and could respect the Attorney General if they took the position that, "Look, we're not going through an adjudication process until such point in time, until Congress specifically appropriates funds so that our acts of adjudication will not be a waste of funds or time," and then I can also respect their demand that they have something included in their budget for that purpose, and, barring their willingness to proceed now, and I hope they do, we better move quickly to take care of those matters to make sure there is an appropriation and that we get the matter resolved, for those people have indeed waited far too long.

But I just want to point out that the task is not complete for those who may be sitting here watching us on C-Span expecting something immediate to happen.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, we have an opportunity today to compensate for one of the great wrongs our Government committed against our own American citizens earlier this century. I rise in support of H.R. 2372, the Radiation Exposure Compensation Act.

This legislation is only necessary because the Federal Government failed to provide adequate warning of the dangers of radiation exposure to individuals downwind from the Nevada test site during the course of the Federal Atmospheric Weapons Testing Program. It is necessary because the Government failed to take steps to protect uranium miners from exposure.

The compensation provided under the bill won't bring back loved ones who have already passed on, or even compensate adequately for the suffering victims are enduring today. But, it will ensure some measure of justice for these victims.

Mr. Speaker, this is a good and fair bill. The one flaw I did find in the House version of the measure has now been corrected by the Senate. That flaw related to diseases that may have brought on by an individual's own con-

duct—conduct such as tobacco or alcohol abuse. It is not our aim here to provide compensation haphazardly. We don't have the money to do that. We have to be sure that the Government's misconduct, not the individual's, is the cause. H.R. 2372 as amended by the Senate will do that.

I urge my colleagues to support these amendments and ensure that justice is finally provided to the many Americans whom the Federal Government failed to protect.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON] who has been another diligent supporter here, particularly with reference to Navajo Indians, but also those involved in the mining situation.

Mr. RICHARDSON. Mr. Speaker, as an original cosponsor of H.R. 2372, the Radiation Exposure Compensation Act, I rise in strong support. Many of the victims that this legislation seeks to help are from New Mexico. Many of the victims are native Americans—a large constituency in the congressional district I represent.

The Federal Government, knowledgeable about the hazards involved, sent uranium miners from New Mexico, Colorado, Arizona, and Utah into inadequately ventilated mines to dig for ore for the Government's nuclear arsenal and never informed them of any radiation dangers. As a result, many of these miners suffered or died from high radiation exposure.

H.R. 2372 would provide compensation for both downwind victims and uranium miners by establishing a $100 million trust fund from which damages would be paid. Upon a decision by the Department of Justice that the claim requirements of H.R. 2372 have been met, a one-time $100,000 compassionate award will be made to miners and $50,000 to downwind victims.

I am pleased to see that the Senate amended the bill to add a provision that I supported during this body's deliberations. The failure of the Federal Government to fulfill its trust responsibilities with respect to ensuring mine safety standards on trust lands is now recognized in section 5(b)(3). Since the Navajo Nation is within my congressional district, I am glad to see that the Congress is now recognizing its failure to ensure mine safety standards in mines on these lands.

I also believe that the Federal Government should recognize it breached its trust obligations to the native American miners to protect and provide for their health care. The Federal Government has an even greater responsibility to the native American miners to alert them to the dangers because through treaties, Executive orders, and various acts of the Congress, the Federal Government has assumed fiduciary duties for Indian health care.

Unfortunately, health care delivery to the miners has been inadequate primarily due to undermanned facilities, insufficient services, and an inability of patients to gain access to services due to remote residences. As a result, I am concerned that many native American miners will have difficulty in proving their claims because their records may be ambiguous, and in some cases non-existent. It is my hope that when the Department of Justice evaluates these claims, it will review them liberally and take note of the difficulty Indian claimants will have in proving their claims.

Mr. Speaker, this legislation provides modest compensation to the many victims who suffered at the hands of the Federal Government. I urge my colleagues' support.

Mr. FRANK. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Arizona [Mr. RHODES] who spoke so movingly of Stewart Udall, former Member of this House. It was Stewart Udall and Dale Harrison, an attorney from Tucson, to whom these people first came, and they associated me with this case some 12 years ago. Stewart has been the guiding light, the spiritual leader, of this great crusade, and I want to commend my colleague, the gentleman from Arizona [Mr. RHODES] for pointing this out. It was in my notes, but I did not speak it.

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

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

I have cause for just one more statement, and I appreciated the very conciliatory remarks of the gentleman from Florida [Mr. JAMES] about his interest in seeing this bill carried out, and I appreciate that he was urging the Justice Department to do it, and I appreciate that. Let me just take the example of the Justice Department. There is obviously no way an injunction is going to issue to make them go right to work, but for them to take the position that when they are given a general appropriation for administrative purposes, and Congress then lays out administrative purposes, that they are not going to go forward with that until there is a specific itemized appropriation is to invite a degree of micromanagement which I would not think they would want.

□ 1500

In other words, it has never been my understanding that we would be the ones to tell them how to spend their administrative budget. We do from time to time, if we think there is some problem, but I would hope the general procedure would be that they would get a general appropriation within broad categories, and as the Congress decided and the President agreed to add tests, those tests would be assumed to be within the general administrative budget. The alternative is that I think from that standpoint there would be a degree of micromanagement in which we would say x would be spent to administer this and x-plus would be spent to administer that, and I do not think that would be a good idea.

Mr. Speaker, I yield to my friend, the gentleman from Florida, if he wants to comment.

Mr. JAMES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my comment is this: Of course, the way the act is written, it is quite clear that they would have to put in their budget a proper request for an appropriation for their administrative costs. There is no question about that. The question is, as a matter of precedent, as a matter of propriety, are they even authorized to do it until there is an appropriation?

We can express our wish or our desire but I assume there is precedent that they indeed would follow, and it would seem odd to me that we would proceed with an administrative procedure ordinarily until there was an appropriation to adjudicate a claim. Perhaps the gentleman has some other precedent.

The SPEAKER pro tempore (Mr. MCNULTY). All time of the gentleman from Massachusetts [Mr. FRANK] has expired. However, the gentleman from Florida still has time, and he reclaim his time and yield to the gentleman from Massachusetts if he so wishes.

Mr. JAMES. Mr. Speaker, I reclaim my time. I yield myself such time as I may consume, and I yield to the gentleman from Massachusetts [Mr. FRANK].

The SPEAKER pro tempore. Without objection, the gentleman from Florida [Mr. JAMES] reclaims his time.

There was no objection.

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

Mr. Speaker, I would say I do not understand what precedent the gentleman is referring to. What we are talking about here is this: We are talking about a general authorization that they get to administer the department. We are adding a test. The gentleman said before that he agreed they should start administering this.

Mr. JAMES. I do, Mr. Speaker. Reclaiming my time, let me say I hope the administration can proceed, the same as you do. I only question whether or not we have gone far enough, if we expect that to happen, because it is not specifically mentioned in the statute.

I am concerned because it is very clear that there has not yet been an appropriation. I question the proprie-

ty of the expenditure in the budget of an item for something we have not gotten appropriated. So let us get it appropriated, for fear that the Attorney General would not move with the alacrity and the speed we all wish to see.

Mr. FRANK. Mr. Speaker, will the gentleman yield further?

Mr. JAMES. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, there is an appropriation according to the payout of the claims, but when the President signs this bill, the law says these claims should be dealt with, and I do not understand the notion that before they carry out the test of beginning the process, they need a specific appropriation. I think a mountain is being made here of a rather small hill.

Mr. JAMES. Reclaiming my time, Mr. Speaker, would the gentleman give me an example of where the Attorney General has proceeded to adjudicate claims prior to an appropriation? I am not familiar with one, and the gentleman may well be. If that be the case, I hope there is precedent so that may occur. I ask the gentleman to give me one example here that that has occurred. I cannot think of one; maybe the gentleman can. I hope that it happens that way.

Mr. FRANK. Mr. Speaker, if the gentleman will yield further, in the first place, we are not talking simply about the adjudication of the claim but the creation of a mechanism for the submission of that. I think by the time it comes to adjudication, that will happen. What we are saying is that having established this policy, they ought to go ahead and start getting the information and setting up a mechanism for the submission of the claim.

Mr. JAMES. Mr. Speaker, reclaiming my time, the gentleman, I think, will admit and concede that it will take an attorney's expenses and time and a budget to proceed the way we would wish him to proceed. It was my understanding during our colloquy that the gentleman wanted a full adjudication of the claim, if possible, but whether the gentleman is talking about just starting or beginning or setting up the administrative proceeding to allow claims to be filed, we are still talking about expenditures of money. I am only asking for a precedent. If you have none, say so. I am merely asking the question. I know of no example——

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

Mr. JAMES. No, I will not yield until I finish my sentence. I will finish my sentence, and then I will yield.

I know of no example, although you might, where, absent an appropriation, the Attorney General moves in that procedure. The gentleman may well know of a precedent. If so, let me know, and we can use that to encourage the administration to move now, although they may otherwise be hesitant.

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

Mr. JAMES. I yield to the gentleman from Massachusetts.

Mr. FRANK. First, I will say with regard to the Japanese claims that we did tell them prior to the appropriation to begin to collect the information and start getting the recordkeeping done. I do not know of too many precedents for this kind of Government payment of a compassionate sort.

On the Japanese-American one where I worked, we did do that.

Second, I would say to the gentleman that I think he has allowed the Justice Department to get him excessively riled up. All we are asking them to do is to start enforcing the law once it is passed. I am sorry that that has been the cause of such agitation.

Mr. JAMES. Mr. Speaker, I am pointing out to the gentleman that I agree with him, and I hope they do, but let us not create unreasonable expectations with the public if they do not.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I stand in the well of this Chamber in strong support of H.R. 2372, the Radiation Exposure Compensation Act, of which I am an original cosponsor. I am especially pleased to see the unfortunate burden of radiation related diseases slightly eased for those military and civilian personnel who were involved in the Atomic Testing Program.

I commend Mr. OWENS and the Judiciary Committee for their hard work bringing H.R. 2372 to the floor, and I thank the other body for its support in making this long awaited compensation a reality.

Mr. Speaker, for too long, the Federal Government has ignored and even evaded responsibility to workers, miners, and families, who are suffering various radiation associated sicknesses begat at the hands of the Federal Government.

In recent years, many military and civilian personnel who were involved in the Atomic Testing Program have suffered various long-term medical injuries, primarily leukemia and other forms of cancer, due to their participation in these tests.

The victims generally fall into two classes. They are either Southwest uranium miners and families who were unwittingly exposed to extraordinary levels of radiation in underground uranium mines, where ore for the Government's weapons industry was mined during the 1950's; or they are fallout victims from the Government's nuclear weapons testing in my district during this same era.

Both types of victims have presented their cases to the judicial system. In both cases, Federal court opinions were issued that the deaths and injuries were caused by radiation exposures generated by activities of the Federal Government, and that Government officials knew of the risks but failed to act.

However, because the courts also found that the Federal decision to conduct weapons testing and mine uranium were discretionary and within the scope of the function of the Federal Government, Federal sovereign immunity laws could be applied to bar radiation victims' claims, thus allowing no means of recourse.

These radiation victims have not been compensated because their deaths and injuries were the result of a policy decision. Their health, Mr. Speaker, was seen as secondary to the national security interest of our country, the same security interest which seeks to protect Americans.

Unlike other war victims, these victims of the cold war could have chosen to live or work elsewhere, had they been informed. Both the 9th and 10th Circuit Courts of Appeal agreed that these cases cry out for redress, but that unfairly restrictive sovereign immunity laws precluded the courts from providing an equitable judgment. Mr. Speaker, H.R. 2372 begins that redress.

This legislation, Mr. Speaker, offers a long overdue Federal apology and provides a modest compassionate payment to the victims and the families of those who have suffered pain and bodily harm in the name of national security.

Legislation and money can never right the wrong, restore lost family members, take the pain from these innocent victims, or make these victims victimless; however, it can help make life a little easier.

Mr. Speaker, once again I stand here to urge my colleagues to support this measure and support the closing of an unfair and unfortunate chapter in the history of our Nation.

Mr. JAMES. Mr. Speaker, may I inquire, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Florida [Mr. JAMES] has 90 seconds remaining.

Mr. JAMES. Mr. Speaker, I yield myself the balance of my time.

I want to make one comment on this issue. I want to make it perfectly clear that I hope we move with great speed to resolve all matters, including the adjudication of these claims. I hope we can get all assistance needed to have a speedy adjudication of these claims in light of the clear mandate of the statute that the Attorney General have and is provided funds for his own ex-

penses. I hope that be the case. This statute is a little different, though, because there is not a specific pocket of funds provided for that specific purpose.

□ 1510

Most statutes have that. This one does not for the administrative process. Because of that, we are depending upon them out of their general budget to proceed quickly. I think it is mandated that it be budgeted there, but I am only mentioning this so we speed up the appropriations part of it to get that going in case there is otherwise any kind of delay perceived or feared by any of us. We need to do that anyway.

So that is what I hope we do as quickly as possible.

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

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

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendment to H.R. 2372.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the Senate amendment to H.R. 2372.

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

There was no objection.

SENSE OF CONGRESS ON STATUTORY PRESUMPTION IN DETERMINING CHILD CUSTODY

Mr. FRANK. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 172) expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent, as amended.

The Clerk read as follows:

H. RES. 172

Whereas State courts have often failed to recognize the determinental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as the courts do not hear or weigh evidence of domestic violence in child custody litigation;

Whereas there is an alarming bias against battered spouses in comtemporary child custody trends such as joint custody and mandatory mediation;

Whereas joint custody guarantees the batterer continued access and control over the battered spouse's life through their children;

Whereas joint custody forced upon hostile parents can create a dangerous psychological environment for a child;

Whereas a batterer's violence toward an estranged spouse often escalates during or after a divorce, placing both the abused spouse and children at risk through shared custody arrangements and unsupervised visitation;

Whereas physical abuse of a spouse is relevant to child abuse in child custody disputes;

Whereas the effects of physical abuse of a spouse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues;

Whereas children are emotionally traumatized by witnessing physical abuse of a parent;

Whereas children often become targets of physical abuse themselves or are injured when they attempt to intervene on behalf of a parent;

Whereas even children who do not directly witness spousal abuse are affected by the climate of violence in their homes and experience shock, fear, guilt, long lasting impairment of self-esteem, and impairment of developmental and socialization skills;

Whereas research into the intergenerational aspects of domestic violence reveals that violent tendencies may be passed on from one generation to the next;

Whereas witnessing an aggressive parent as a role model may communicate to children that violence is an acceptable tool for resolving marital conflict; and

Whereas few States have recognized the interrelated nature of child custody and battering and have enacted legislation that allows or requires courts to consider evidence of physical abuse of a spouse in child custody cases: Now, therefore, be it

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

SECTION 1. It is the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is deterimental to the child to be placed in the custody of the abusive spouse.

SEC. 2. This resolution is not intended to encourage States to prohibit supervised visitation.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

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

Mr. Speaker, let me reassure Members that this resolution calls on the Justice Department to do nothing whatsoever and is unlikely to be at all controversial or time consuming. It is a matter that was brought to our attention by the gentlewoman from Maryland [Mrs. MORELLA]. She has been very much concerned with the matter of equity and been concerned with the problem of violence, particularly against women, but obviously not exclusively.

The gentlewoman brought this to our subcommittee as an important concern. We had a long hearing in a session in which the gentleman from New Hampshire [Mr. DOUGLAS] took a very important role. We certainly have cast this in a way that I think makes a contribution to the consideration of an important issue. It is a recommendation by the House of Representatives to State judges. It has no binding force, but it is a very thoughtful recommendation, and one that will reflect a very important public policy, particularly that those who commit violence in any context, family or otherwise, ought to be required to bear the consequences of that violence.

Mr. Speaker, there has been historically in our Nation a tendency to treat somewhat more lightly violence that might have occurred in a family setting. That is a wholly unjustified attitude, and this resolution is one further confirmation of that fact.

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

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

Mr. Speaker, I rise in support of House Concurrent Resolution 172 as amended. I would like to compliment the subcommittee chairman, Mr. FRANK, for convening the hearings on this legislation. I would also like to commend Mr. FRANK and Mr. DOUGLAS for their efforts to address the concerns we shared with a number of our colleagues over the original legislation. The resulting bill before us today is a good one that will address legitimate concerns in child custody cases.

Mr. Speaker, domestic violence has reached epidemic proportions in this Nation. Statistics reflect that between 12 to 15 million adult women have been the victims of physical assault by an adult intimate. According to testimony given before the subcommittee by our distinguished colleague from Maryland, the Honorable CONSTANCE MORELLA, nearly one-third of these women are killed each year by their husbands or partners. It is clear that the devastating effects of such abuse extend far into the future, not only for the abused spouse, but also for the children living in such an atmosphere of violence.

The bill before us today clearly recognizes the detrimental effects that domestic violence has on the welfare of children. House Concurrent Resolution 172 as amended, expressed the sense of Congress that, for purposes of determining child custody, credible

evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive parent.

I do understand the concerns of those individuals who contend that spousal abuse and child abuse are two, unrelated actions focused on two, different targets. However, I firmly believe that both actions reflect brutal crimes and are detrimental to the welfare of the children exposed to such violent behavior. While there is no guarantee that a battering spouse will become a battering parent, I would prefer to err on the side of the child rather than on the side of a parent who practices violent behavior.

Again, I would like to express my support for this measure and I hope that the policy reflected in this legislation will be implemented by the States.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to commend the gentleman from Massachusetts [Mr. FRANK] for his commitment to ending the silent crisis of domestic violence. He has worked to move this bill from the hearing stage through the full committee, and I thank him for his cooperation and for the conscientious work of his staff, especially David Naimon. I also appreciate the assistance of Chairman BROOKS, and the ranking minority member of the subcommittee, Mr. DOUGLAS.

Mr. Speaker, 6 years ago in Illinois, James Lutgen strangled his wife, Carole, in front of their two daughters, ages 6 and 8. He was arrested and, after plea bargaining, was charged with voluntary manslaughter. Upon his release less than 2 years later, he sought custody of his children, who had been placed in the care of his sister-in-law. Over their aunt's protests, the judge returned the children to James Lutgen because he was their natural father and because until he killed Carole, he had a good record.

If a parent's alcohol or drug abuse is a bona fide area of inquiry by the courts in custody issues, why is a parent's violent behavior irrelevant? Why is violence committed against another human being in the privacy of the home acceptable behavior? Surely, it is relevant to a determination of character, fitness, and ability to care for a child.

Domestic violence or battering is a means of establishing control over another person through fear and intimidation. Generally, battering is physical, but it also includes emotional, economic, and sexual abuse, and the kind of isolation experienced by hostages or prisoners of war.

Domestic violence is a brutal criminal act, mostly but not always committed by men against women. The shocking reality is that every 15 seconds, a woman is beaten in her home. An estimated 3 to 4 million American women are assaulted every year by their husbands or partners. Often their children watch.

Why does battering occur and why can't we stop it? There are many theories about batterers and why they resort to violence. These include career and economic stress, violence on TV and in the movies, poor socialization, and sexism in our society.

Whatever the causes, the real reason battering continues is that too many people look the other way, and our judicial system has done little to remedy the situation. For many victims of domestic violence, the courts, in fact, have become their adversaries, not their allies.

The most blatant examples of judicial indifference and negligence, however, are to be found in child custody cases. In most States, judges, who have broad discretionary powers in custody disputes, are not required to even consider evidence of spousal abuse when determining custody.

Dr. Lenore E. Walker has argued in her book, "The Battered Woman," that spousal abuse is child abuse. Dr. Walker reports that 53 percent of men who abuse their wives also abuse their children. Even if physical abuse is not present, these children live in an atmosphere of emotional trauma with longlasting effects. Such children are more prone to anxiety, depression, learning disabilities, and delinquency problems. And some learn that battering is OK.

In testimony before the House Subcommittee on Administrative Law and Governmental Relations, several witnesses underscored the terrible consequences of domestic violence on children. The bill we are considering today would put Congress on record as supporting the concept that for the purposes of determining custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to a child to be placed in the custody of the abusive parent.

Lorraine Chase, a social worker from the YMCA Women's Center in Annapolis, stated:

> When children are raised in homes where violence occurs, they learn two basic ways of coping with life: Aggressive behavior or passive indifference * * * passive indifference is evidenced in behaviors such as alcohol and drug abuse, teen pregnancy, and teen suicide. Aggressive behaviors are evidenced by increasing violence in our schools, truancy, and crime.

And, unfortunately, spouse abuse—and its effects on children—does not end with divorce. In fact, the abuse may increase. Custody litigation or the threat of it becomes another weapon for the batterer. Shared or joint custody, when there is a history of abuse, sets the stage for continued access to the victim and the children.

Marcia Shields of Silver Spring, MD, testifying on behalf of this bill, told an all-too-familiar tale to the subcommittee. Terrified that her abusive husband would carry out his threats to quit his job and disappear with their children—he had already announced plans to leave the area and left airplane tickets where she could find them—Shields agreed to his demands for joint custody. She soon realized her mistake.

After an incident involving the physical abuse of one of Shield's sons, Montgomery County Protective Services reprimanded her husband. When her husband was reported a second time for abusing her daughter, protective services refused to intervene because Shields and her husband were about to go to court for a custody trial in which Shields planned to ask for full custody. "Let the courts handle it," she was told.

To her shock and disbelief, the courts handled it by upholding the original joint custody agreement. Evidence of spousal abuse was deemed not pertinent to the issue of custody. "A person may be violent and vindictive towards a spouse and yet be the best, most loving parent in the world," the judge told her.

Last year, when her ex-husband came to pick up the children for an unscheduled visit, Shields refused. He assaulted her in front of their children. Found guilty of battery and assault and sentenced to 2 years of probation, he still has joint custody of the children. The criminal court judge, however, ordered that a third party pick up and deliver the children for the duration of his probation.

Many woman are not as lucky as Marcia Shields. Carole Lutgen was one of the more than 4,000 women in the United States who are killed each year by their spouses or intimate partners. Closer to home, in 1989, more than 120 women were killed by their husbands or boyfriends in the District of Columbia, Maryland, and in Virginia.

And what about the children? How many of our children are learning from their first and best teachers, their parents, that violence is the expected, accepted, and most expedient way to solve life's problems?

Today, only a handful of States and the District of Columbia require judges to consider evidence of spousal abuse in determining child custody. By enacting House Concurrent Resolution 172, Congress will focus national attention on domestic violence and its terrible toll on our society. By approving this resolution, Congress has the opportunity to provide the leadership and direction needed for the remaining States to revise custody statutes that for too long have failed to recog-

nize the tragic consequences of family violence.

Mr. Speaker, our families and children deserve no less.

Mr. MILLER of California. Mr. Speaker, I rise in support of House Concurrent Resolution 172, which expresses the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to children to be placed in the custody of an abusive parent.

I want to thank my colleague from Maryland [Mrs. MORELLA] for her leadership on this issue and her hard work on the resolution. I would also like to thank the members of the Judiciary Committee for their efforts on its behalf.

This resolution is an outgrowth of the work of the Select Committee on Children, Youth, and Families on violence against women and children. Many witnesses who have come before the committee have testified about the fear and violence that have permeated their lives. This resolution is designed to focus national attention on one of the most traumatic problems that far too many families in America live with on a daily basis: Domestic violence. Ninety-five percent of the victims of domestic violence are women; more than 2 million are battered each year by their husbands or partners. Domestic violence affects all cultural and socioeconomic groups in our society.

We have been slow to respond to this problem in local communities throughout the country. Police and the courts often do not take incidents of domestic violence seriously, and even when abusing spouses are incarcerated, they frequently return on their families upon their release from jail.

Abused spouses, 95 percent of whom are women, often have difficulty in separating from their abuser because of the tremendous insecurity that such abuse fosters and a lack of financial resources to leave the family home. Moreover, many women fear that if they seek a divorce, they will lose custody of their children. Shelters for abused women and their children exist in many, but not all communities, and they often are forced to turn away those seeking shelter because of a lack of resources.

This resolution will encourage States to help the victims of domestic violence escape from it.

We know that in approximately one-half of the situations where spouse abuse exists, child abuse is present as well. Some of this abuse happens when children attempt to protect their parents from abuse. Even in those instances where the children are not physically harmed, their emotional well-being is jeopardized by witnessing such abuse against their parent.

Domestic violence is an ugly consequence of the violent nature of our society. Its impact on children is severe and longlasting. Children who experience violence in their homes, are more likely to turn to violent behavior when they are parents. Given its physical and emotional consequences, it is inexcusable that in only a handful of States, family courts take evidence of domestic violence into account when determining custody.

Opposition to this resolution comes primarily from organizations whose members believe that unfounded allegations of spouse abuse will hinder the ability of fathers to obtain custody of their children. Language added to the resolution by the subcommittee addresses this concern by making it clear that credible evidence of physical abuse must be present to trigger the statutory presumption.

This resolution sends a clear, basic message to spouse abusers: No longer will you be able to hold an untenable marriage together because of your threats to take custody of the children. This resolution provides an opportunity for Congress to lead the way in saying that spouse abusers will not be rewarded for their behavior.

This resolution will not cost the Federal Government any money to implement. It will not cost the States any money to enact legislation based on this resolution. The only cost of this resolution is to batterers, who will no longer be able to stand in court on equal footing with the spouse that they have abused, and seek custody of their children.

I ask you to vote with me in favor of House Congressional Resolution 172 and show your commitment to America's children. Tell our children that you don't want them to have to live in fear of violence in their own homes. Adoption of this resolution will encourage States to take action. It is the least we can do to protect America's children.

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

Mr. FRANK. 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 Massachusetts [Mr. FRANK] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 172, as amended.

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

The title of the House concurrent resolution was amended so as to read:

Concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

A motion to reconsider was laid on the table.

□ 1520

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 172, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MCNULTY]. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL JUDGESHIP ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5316) to provide for the appointment of additional Federal circuit and district judges, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5316

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 "Federal Judgeship Act of 1990".

SEC. 2. CIRCUIT JUDGES FOR THE CIRUCIT COURT OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional circuit judges for the third circuit court of appeals;

(2) 2 additional circuit judges for the fourth circuit court of appeals;

(3) 1 additional circuit judge for the fifth circuit court of appeals;

(4) 1 additional circuit judge for the sixth circuit court of appeals;

(5) 1 additional circuit judge for the eighth circuit court of appeals; and

(6) 2 additional circuit judges for the tenth circuit court of appeals.

(b) TABLES.—In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuit	Number of Judges
District of Columbia	12
First	6
Second	13
Third	14
Fourth	13
Fifth	17
Sixth	16
Seventh	11
Eighth	11
Ninth	28
Tenth	12
Eleventh	12
Federal	12.".

SEC. 3. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional district judges for the northern district of California;

(2) 5 additional district judges for the central district of California;

(3) 1 additional district judge for the district of Connecticut;

(4) 1 additional district judge for the middle district of Florida;

(5) 1 additional district judge for the southern district of Florida;

(6) 1 additional district judge for the northern district of Illinois;

(7) 1 additional district judge for the southern district of Iowa;

(8) 1 additional district judge for the southern district of Mississippi;

(9) 1 additional district judge for the eastern district of Missouri;

(10) 3 additional district judges for the district of New Jersey;

(11) 3 additional district judges for the eastern district of New York;

(12) 1 additional district judge for the southern district of New York;

(13) 1 additional district judge for the southern district of Ohio;

(14) 1 additional district judge for the district of Oregon;

(15) 3 additional district judges for the eastern district of Pennsylvania;

(16) 1 additional district judge for the eastern district of Tennessee;

(17) 2 additional district judges for the northern district of Texas;

(18) 1 additional district judge for the eastern district of Texas;

(19) 5 additional district judges for the southern district of Texas; and district of Texas; and

(20) 3 additional district judges for the western district of Texas; and

(21) 1 additional district judge for the eastern district of Washington.

(b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353; 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(2)(A) The existing two district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this Act.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act), the occupant of which has his or her official duty station at Oklahoma City on the date of enactment of this Act, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(c) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 1 additional district judge for the middle district of Florida;

(2) 1 additional district judge for the central district of Illinois;

(3) 1 additional district judge for the western district of Michigan;

(4) 1 additional district judge for the district of Nebraska;

(5) 1 additional district judge for the district of New Mexico;

(6) 1 additional district judge for the northern district of New York;

(7) 1 additional district judge for the northern district of Oklahoma;

(8) 1 additional district judge for the western district of Oklahoma

(9) 1 additional district judge for the eastern district of Pennsylvania;

(10) 1 additional district judge for the middle district of Tennessee;

(11) 1 additional district judge for the eastern district of Virginia;

(12) 1 additional district judge for the southern district of West Virginia; and

(13) 1 additional district judge for the northern district of West Virginia.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 5 years or more after the effective date of this Act, shall not be filled.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (b) of this section, such table is amended to read as follows:

"Districts	Judges
"Alabama:	
"Northern	7
"Middle	3
"Southern	3
"Alaska	3
"Arizona	8
"Arkansas:	
"Eastern	5
"Western	2
"California:	
"Northern	14
"Eastern	6
"Central	27
"Southern	7
"Colorado	7
"Connecticut	7
"Delaware	4
"District of Columbia	15
"Florida:	
"Northern	3
"Middle	10
"Southern	16
"Georgia:	
"Northern	11
"Middle	3
"Southern	3
"Hawaii	3
"Idaho	2
"Illinois:	
"Northern	22
"Central	3
"Southern	3
"Indiana:	
"Northern	4
"Southern	5
"Iowa:	
"Northern	2
"Southern	3
"Kansas	5
"Kentucky:	
"Eastern	4
"Western	4
"Eastern and Western	1
"Louisiana:	
"Eastern	13
"Middle	2
"Western	6
"Maine	2
"Maryland	10
"Massachusetts	12
"Michigan:	
"Eastern	15
"Western	4
"Minnesota	7
"Mississippi:	
"Northern	3
"Southern	6
"Missouri:	
"Eastern	6
"Western	5
"Eastern and Western	2
"Montana	3
"Nebraska	3
"Nevada	4
"New Hampshire	2
"New Jersey	17
"New Mexico	4
"New York:	
"Northern	4
"Southern	28
"Eastern	15
"Western	4
"North Carolina	
"Eastern	3
"Middle	3
"Western	3
"North Dakota	2
"Ohio:	
"Northern	11
"Southern	8
"Oklahoma:	
"Northern	2
"Eastern	1
"Western	5
"Northern, Eastern, and Western	1
"Oregon	6
"Pennsylvania:	
"Eastern	22
"Middle	5
"Western	10
"Puerto Rico	7
"Rhode Island	3
"South Carolina	8
"South Dakota	3
"Tennessee:	
"Eastern	5
"Middle	3
"Western	4
"Texas:	
"Northern	12
"Eastern	7
"Southern	18
"Western	10
"Utah	4
"Vermont	2
"Virginia:	
"Eastern	9
"Western	4
"Washington:	
"Eastern	4
"Western	7
"West Virginia:	
"Northern	2
"Southern	4
"Wisconsin:	
"Eastern	4
"Western	2
"Wyoming	2".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this Act.

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

(1) provide an accurate measure of the workload of existing judges;

(2) are applied consistently to the various circuit courts of appeals and district courts; and

(3) provide an accurate indicator of the need for additional judgeships.

(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act, report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield to myself such time as I may need.

Mr. Speaker, H.R. 5316, the Federal Judgeship Act of 1990, is a bill to provide badly needed additional resources to the Federal judiciary. The bill creates 9 new judgeships for the circuit courts of appeals and 52 for the district courts. It also converts to permanent status six district court judgeships currently classified as temporary. In addition, the bill requires the General Accounting Office to review the process used by the Judicial Conference of the United States in developing its periodic recommendations to Congress for the creation of new judgeships. The principal purpose of this study provision is to help the Conference improve its methodologies to more accurately reflect the need for additional judicial resources.

In developing this legislation, the Judiciary Committee has carefully analyzed recent trends in Federal court caseloads. Contrary to what the casual observer might believe from reading the newspaper or watching the evening news, there has not been an across-the-board explosion in the number of cases. In fact, according to statistics compiled by the U.S. Judicial Conference, the total number of cases filed annually in Federal district courts actully declined between 1985 and 1989.

At the same time, however, some district courts—particularly those in border and coastal States with a large number of drug prosecutions—have experienced a tremendous increase in their caseloads. This increase in drug caseloads has also had the unfortunate effect of backing up the civil docket in these districts as well.

H.R. 5316 will provide much needed assistance for courts overrun by criminal cases as they perform their vital role in the war on drugs. While the bill includes a smaller number of new judgeships than recommended by the Judicial Conference, it targets these new positions to the circuits and districts most in need of help.

I must also point out—as I have on numerous occasions over the past several months—that creating new judgeships is just one part of the solution to court overcrowding. The other necessary component is decisive action by the President to fill vacancies among existing judgeships. As of September 1, there were 42 vacant district and appellate judgeships—including one that has been vacant for over 3½ years. For 30 of these positions, the President has not even submitted a nomination. It is clear that neither this bill nor any other judgeship proposal will do much to ease the courts' caseload burden unless the President acts promptly to fill both the new positions and these current vacancies.

The committee has produced a solid piece of legislation that addresses the critical problem of court ovecrowding in a fair and equitable manner, and I urge my colleagues to support this bill.

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

Mr. Speaker, I rise in support of the Federal Judgeship Act of 1990—H.R. 5316—legislation which would authorize additional Federal district court and Federal circuit court judgeships.

While this bill does not go as far as the Bush administration and Judicial Conference hoped it would, it is nevertheless a significant step toward dealing with the serious caseload problem faced in our Federal courts. The bill before the House of Representatives today would establish a total of 61 Federal judgeships—9 U.S. courts of appeals judges and 52 new district court judgeships—39 permanent and 13 temporary. H.R. 5316 also converts six temporary judgeships, created in 1984, to permanent status. Again, while the Judicial Conference recommendations were higher, these new additional judgeships will go a long way toward providing the additional resources so badly needed in the judiciary.

Mr. Speaker, it has been over 6 years since additional judgeships were last authorized for the Federal courts. During that time we have seen tremendous changes in both the volume and the complexity of the workload of the Federal courts. Numerous pieces of legislation in recent years have had a major impact on the workload of our courts. The implementation of the sentencing guidelines, new initiatives to fight the war on drugs, and the advent of mandatory minimum sentences, have all resulted in substantial additional work for the courts, and all have the potential to increase the burdens even more in the coming years.

Since the last judgeships were authorized in 1984, the number of criminal cases filed in the district courts has grown by nearly 30 percent. Drug cases alone have increased by nearly 130 percent and now represent approximately 30 percent of all criminal cases. In the courts of appeals, the situation is similar to that of the district courts. New filings have grown by nearly 30 percent since 1984 and by 13 percent in just the last 2 years.

On June 6, 1990, the Judicial Conference approved recommendations for 96 additional judgeships, 20 for the courts of appeals, and 76 for the district courts. The Judicial Conference recommendations are predicated on past filings, but also implicitly anticipate prosecutorial priorities such as the war on drugs, financial institutions, fraud and defense procurement fraud. The legislation before the House today reflects that the Federal courts most in need of additional resources are in the South, the Southwest, and in my own State of California. I am pleased to note that during the markup of H.R. 5316 in the Subcommittee on Economic and Commercial Law, I sponsored an amendment to add an additional district court judgeship for the central district of California. The legislation introduced by Chairman BROOKS had called for four additional judges in the central district, but as a result of my amendment, there will now be five. This Moorhead amendment was agreed to in subcommittee.

The Attorney General has stated many times that the justice system is a pipeline—investigators need prosecutors to bring cases and prosecutors need judges to try the cases. The new judgeships provided for in H.R. 5316 are badly needed and overdue resources. Congress must recognize that the war on drugs and the S&L prosecutions necessitate these on-going commitments. I urge the adoption of this legislation.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentle-

man from California [Mr. EDWARDS], a subcommittee chairman.

Mr. EDWARDS of California. Mr. Speaker, the people of northern California are grateful to the chairman of our committee, the gentleman from Texas [Mr. BROOKS] for taking into consideration the very real problem we have in the northern district of California where we have an enormous backlog and where the trials are particularly difficult, with 20 of the cases recently taking more than 10 days and 11 of which, extended civil cases, took over 20 days.

□ 1530

We needed two judges. Originally it was intended that we would only get one, but through the kindness of the gentleman from Texas [Mr. BROOKS], our chairman, and with the cooperation of the ranking Republican, my friend and colleague, the gentleman from California [Mr. MOORHEAD], we were able to add the extra judge to the bill for which we are enormously grateful.

I urge that this bill be enacted. It is really very important so that these cases can be handled.

Sometimes we are waiting years to try civil cases in the Federal courts. That is justice being denied. This is a very important bill.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking member of the subcommittee and of the full committee.

Mr. FISH. Mr. Speaker, I am pleased that we are considering legislation authorizing additional Federal judgeships. An evaluation of current information relating to the capacities of Federal courts to handle their caseloads leads to the inescapable conclusion that relief is urgently needed for U.S. district courts and U.S. courts of appeals.

During our markup in the Subcommittee on Economic and Commercial Law, I offered an amendment providing a third new district court judgeship for the eastern district of New York and converting a new temporary judgeship for the southern district of New York into a permanent position. I was pleased that the subcommittee, in recognition of caseload demands in these districts, approved my amendment.

Congress last acted 6 years ago to increase article III judicial positions for the district courts and the courts of appeals. We now must respond to the realities of caseloads today—including an upsurge in time-consuming drug-related criminal cases, referred to by Chairman BROOKS, by providing the judiciary with the necessary positions to handle adjudications expeditiously.

Long delays in judicial dispositions leave disputes unresolved and undermine the administration of justice. Improvements in case management techniques, in some situations, may provide the key to increases in judicial productivity—but new judgeships become essential when other mechanisms for addressing caseload pressures prove inadequate.

The Judicial Conference assessment of judgeship needs—based on detailed study of caseload factors—is helpful. The legislation before us incorporates many of the Judicial Conference's recommendations.

I urge my colleagues to join me in voting for passage of H.R. 5316.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I would like to take this opportunity to commend the distinguished chairman of the Committee on the Judiciary, Mr. BROOKS, for his efforts on H.R. 5316, the Federal Judgeship Act of 1990. This bill would create 9 new judgeships for the courts of appeal and 50 new district court judgeships. These new judgeships are critical if this Nation is going to win the war against drugs and have, at the same time, enough judges to manage the civil caseloads which our courts face.

Although I support the bill, I must point out that I believe it lacks one extremely important judgeship and that is a temporary judgeship for the district of Nevada. The statistics support my contention. In 1989, the workload in the district of Nevada rose to 492 total filings, 462 weighted filings, and 551 pending cases per judgeship. The 551 pending cases is well above the national average of 468 and the 492 total filings exceeds the national average of 459 by 33 filings. The district court itself requested one additional permanent judgeship based on the level of weighted filings, the number of triable pending defendants, and the burdens associated with serving several places of holding court. In particular, 19 percent of the Las Vegas caseload must be assigned to the judge stationed in Reno. This requires him to make the 480-mile, one-way trip between the two cities frequently.

One additional judgeship would reduce 1989 workload levels to 393 filings, 370 weighted filings, and 441 pending cases per judgeship. When the weighted caseload is considered in conjunction with the high criminal caseload, the large pending caseload, and the regular travel requirements that now exist, the court is clearly in need of one position. Based on the above statistical and geographic data in its Biennial Judgeship Survey, the Judicial Conference of the United States has made a recommendation for one additional temporary judgeship and I urge the chairman to accept that recommendation.

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

Mr. Speaker, in closing, I want to especially thank the chairman of the committee, the gentleman from Texas [Mr. BROOKS]. He really worked hard on this bill. He was very generous with handing out the judgeships as he determined where they were needed. I think he worked very carefully on the legislation, and I think he has done a remarkably good job on it. I want to commend him for his work and his efforts.

I want to thank the gentleman from New York, the ranking Republican on the subcommittee and on the full committee, for his efforts in helping us get this bill out.

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

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

Mr. Speaker, I want to thank my beloved friends, the gentleman from California [Mr. MOORHEAD] and the gentleman from New York [Mr. FISH], and say that whatever we do is based on the outstanding work of an illustrious and dedicated staff.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today to support H.R. 5316, the Federal Judgeship Act of 1990, which will create a new judgeship for the Federal District of Connecticut. I also want to offer my thanks to my friend and colleague, Representative JACK BROOKS, the chairman of the Judiciary Committee, for his customary outstanding work on this bill.

The citizens of Connecticut know what we need to do to take on drug crime. We need to lock up drug dealers. We need to go after drug buyers. We need to seize property used in drug transactions. We need to make sure that anyone convicted of a drug-related murder is thrown in prison and will never threaten the general public again. To realize any of these goals, we need to use the courts. We need to use them a lot.

During this year alone, the number of criminal and civil suits filed in Federal court in Connecticut has increased by 7 percent. At the same time, the number of cases handled by the District's senior judges has declined appreciably. Thus, although the average number of trials completed by Connecticut's six Federal judges ranks the district in the top quarter of all Federal courts, we also have one of the largest backlogs. The six judges now on the court cannot keep up with the trial load. Connecticut simply needs more judges.

This growing backlog threatens our ability to deal swiftly with criminal cases that come before the courts. Research demonstrates that speedy resolution of criminal cases is a substantial factor in deterring crime. Moreover, the right to speedy trial is guaranteed by the sixth amendment of the U.S. Constitution.

The Judicial Conference of the United States has recommended two new judges for Connecticut, and the Senate counterpart to this bill follows that recommendation. Frankly,

I hope that the Senate position prevails on this point. However, regardless of the outcome of this question, I am proud to support H.R. 5316. I hope that my colleagues will do the same.

Mr. SMITH of Texas. Mr. Speaker, without enough Federal judges, our legal system is limited in its ability to stop crime. It is one thing to catch a wanted criminal, but unless this criminal is convicted in court and sentenced, future crime will continue unabated—the criminal will be right back on public streets, free to repeat the offense.

Supporting H.R. 5316, the Federal Judgeship Act of 1990, will stop crime by strengthening a weak link in the criminal justice system.

Crime is a national problem. By adding 38 new Federal judgeships across the Nation, approximately 3,000 more drug related criminal cases can be tried per year.

Since 1984, the number of criminal case filings has grown by 30 percent, while drug cases have increased by 130 percent, and now represent almost 30 percent of all criminal cases. Despite this growing workload of the courts, Congress has not created any new Federal judgeships since 1984.

The lack of Federal judgeships has reached crisis levels in many parts of the country. For example, the Federal judges in the western district of Texas, bear the burden of a criminal caseload 300 percent above the national average.

The backlog in Texas Federal courts is so severe that at least five U.S. district judges can no longer attend any civil cases currently pending on their dockets.

The Federal Judgeship Act of 1990, would help solve this problem by adding 11 additional judgeships for the State of Texas. These judges will provide welcome relief for the currently overloaded judges, while improving our criminal justice system as a whole.

I urge my colleagues to support this bill. Let's get tough on crime.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of H.R. 5316, the Federal Judgeship Act and commend the chairman and members of the House Committee on the Judiciary for bringing this measure to the floor today. As an early supporter of this bill, I am very pleased to know that it will be approved by the House of Representatives today.

My particular interest in this bill is rooted in the severe understaffing in the Federal judiciary in my home State of Connecticut. According to the Judicial Conference of the United States, Connecticut's Federal courts are straining under the weight of increased caseloads and have relied on the valuable services of senior judges to carry the load. Thousands of cases await review in our courts and this bill will help provide the manpower to meet the growing demand exacerbated by the recent loss of one of our senior judges.

Though this bill provides for one additional judgeship in the district of Connecticut, I am pleased to note that a similar Senate bill includes two judgeships for my State. Since this more accurately reflects the needs of the Connecticut judiciary. I hope the House managers of the bill will acknowledge this fact and agree to accept the Senate language regarding Connecticut's needs.

On behalf of the hard-working men and women of the Connecticut district, I would like to thank my colleagues, especially Chairman BROOKS and ranking member FISH, for their diligence in bringing this important legislation to the floor.

Mr. LIVINGSTON. Mr. Speaker, today in an attempt to finish our business we have a suspension calendar consisting of 21 bills. Most of us have a good working knowledge about only a few of these bills. The rest have been rushed to the floor so quickly that we are essentially voting on legislation that we know little about. We are trusting the leadership to include only noncontroversial measures.

Mr. Speaker, the inclusion of H.R. 5316, the Federal Judgeship Act of 1990, on this fast-track list of supposedly noncontroversial measures is perplexing to me. This bill authorizes 59 new Federal judgeships. Its Senate counterpart authorizes 77 new judgeships. It has been 6 years since this body last created new Federal judgeships and we have done so only twice in the last 12 years.

Yet we are here ready to pass this legislation without serious debate. There is no doubt that our great country needs new judgeships. And there is no doubt that we should move quickly to provide means by which our justice system can put criminals behind bars. My complaint, rather, is with the distribution of these judgeships. My State, Louisiana, inexplicably gains no judgeship. This is so despite the recommendation of the Judicial Conference that Louisiana receive a judgeship and despite the fact that the Senate bill contains a judgeship for Louisiana.

I do not plan to oppose this legislation because I think it imperative to provide these judgeships as soon as possible. I am disgruntled, though, that such an important piece of legislation would be rushed to the floor and placed on the suspension calendar with little opportunity for meaningful debate. Lastly, I want to ask Chairman BROOKS to instruct the conferees to include in the conference report a Federal district court judgeship for the western district of Louisiana.

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

The SPEAKER pro tempore [Mr. MCNULTY]. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5316, as amended.

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

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5316, the bill just under consideration, and on S. 84, the Senate bill considered previously today.

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

There was no objection.

CAPITOL POLICE RETIREMENT ACT

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5641) to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

The Clerk read as follows:

H.R. 5641

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Capitol Police Retirement Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 2. AMENDMENTS TO CHAPTER 83.

(a) IMMEDIATE RETIREMENT.—Section 8336 is amended by redesignating subsection (m) as subsection (n) and inserting after subsection (l) the following new subsection:

"(m) A member of the Capitol Police who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police or as a law enforcement officer, or any combination of such service totaling at least 20 years, is entitled to an annuity.".

(b) MANDATORY SEPARATION.—(1)(A) Section 8335 is amended by redesignating subsection (d) as subsection (e) and inserting after subsectio the following new subsection:

"(d) A member of the Capitol Police who is otherwise eligible for immediate retirement under section 8336(m) shall be separated from the service on the last day of the month in which such member becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board, when in its judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Board shall notify the member in writing of the date of separation at least 60 days in advance thereof. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.".

(B) The amendment made by subparagraph (A) shall take effect 2 years after the date of enactment of this Act.

(2) Section 8335(e), as so redesignated by paragraph (1)(A), is amended by inserting "(Other than a member of the Capitol Police)" after "employee".

(c) COMPUTATION.—(1) Section 8339 is amended by adding at the end the following new subsection:

"(q) The annuity of a member of the Capitol Police, or former member of the Capitol Police, retiring under this subchapter is computed in accordance with subsection (b), except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2), the annuity of such member is—

"(1) 2½ percent of the member's average pay multiplied by so much of such member's total service as does not exceed 20 years; plus

"(2) 2 percent of the member's average pay multiplied by so much of such member's total service as exceeds 20 years.".

(2)(A) The amendment made by paragraph (1) shall take effect 4 years after the date of enactment of this Act, and shall apply with respect to any annuity, entitlement to which is based on a separation occurring on or after that effective date, subject to subparagraph (B).

(B) Nothing in this subsection or in the amendment made by this subsection shall, with respect to any service performed before the effective date of such amendment, have the effect of reducing the percentage applicable in computing any portion of an annuity based on such service below the percentage which would otherwise apply if this Act has not been enacted.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 8337(a) is amended in the last sentence by striking "8339(a)-(e) or (n)" and inserting "8339(a)-(e) or (n)" and inserting "8339(a)-(e), (n), or (q)".

(2) Subsections (f) and (m) of section 8339 are each amended by striking "(a)-(e) and (n)" and inserting "(a)-(e), (n), and (q)".

(3) Section 8339(g) is amended—

(A) in paragraph (2), by striking "(a)-(c) or (n)" and inserting "(a)-(c), (n), or (q)"; and

(B) in the matter following paragraph (2), by striking "(c), or (n)" each place it appears and inserting "(c), (n), or (q)".

(4) Section 8339(i) is amended by striking "(a)-(h) and (n)" and inserting "(a)-(h), (n), and (q)".

(5) Section 8339(j), 8339(k)(1), and 8343a are each amended by striking "(a)-(i) and (n)" each place it appears and inserting "(a)-(i), (n), and (q)".

(6) Section 8339(l) is amended by striking "(a)-(k) and (n)" and inserting "(a)-(k), (n), and (q)".

(7) Subsections (b)(1) and (d) of section 8341 are each amended by striking "(n), and (o)" and inserting "(n), (o), and (q)".

(8) Section 8344(a)(A) is amended by striking "(i), and (n)" and inserting "(i), (n), and (q)".

SEC. 3. AMENDMENTS TO CHAPTER 84.

(a) IMMEDIATE RETIREMENT.—Section 8412(d) is amended by striking "officer" each place it appears and inserting "officer, member of the Capitol Police,".

(b) MANDATORY SEPARATION.—(1)(A) Section 8425(b) is amended by striking "office" each place it appears and inserting "officer, member of the Capitol Police,".

(B) Nothing in section 8425(b) of title 5, United States Code, as amended by subparagraph (A) shall require the automatic separation of any member of the Capitol Police before the end of the 2-year period beginning on the date of enactment of this Act.

(2) Section 8425(c) is amended by inserting "(other than a member of the Capitol Police)" after "employee".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

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

Mr. Speaker, H.R. 5641 was introduced by myself, my good friend and ranking minority member of the Subcommittee on Personnel and Police, Mr. ROBERTS, our distinguished committee chairman, FRANK ANNUNZIO, and our colleague, GARY ACKERMAN, chairman of the Subcommittee on Compensation and Employee Benefits. Our goal was to place the U.S. Capitol Police Force on a level playing field with other Federal law enforcement agencies.

I would like to thank the Committee on Post Office and Civil Service for its swift approval of this legislation and agreement with our committee that this bill should be enacted at once.

Mr. Speaker, allow me to take this opportunity to say that the men and women who constitute the U.S. Capitol Police are highly skilled, competent, and accomplished individuals. They are charged with the important task of protecting the Capitol of the United States, Members of Congress and their staff, foreign dignitaries, and millions of tourists who visit the Capitol every year.

In March of this year, the Subcommittee on Personnel and Police conducted a hearing to address several issues which merited serious consideration. The subcommittee received testimony from the Capitol Police Board, the chief of police, and over 400 members of the U.S. Capitol Police Force.

After many months of review, the subcommittee introduced a reform package, which, among other items, included two pieces of legislation.

Today, we are to consider the final component of the reform package—the Capitol Police Retirement Act. Upon enactment, the computation of retirement for the U.S. Capitol Police Force will be changed from its current application pertaining to years of service.

Mr. Speaker, H.R. 5641 will accomplish several things:

First, with reference to immediate retirement, an employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police, or a combination of other Federal law enforcement service, will be entitled to an annuity;

Second, regarding mandatory separation, a member of the Capitol Police who is otherwise eligible for immediate retirement, shall be separated from the service on the last day of the month in which the employee becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board will be able to exempt a member from automatic separation until the employee becomes 60 years of age, if retaining the employee is to the benefit of the public interest. However, mandatory separation will not take effect until 2 years after enactment of this legislation;

Third, in 4 years, the computation rate will change so that Capitol Police officers will have their annuities computed identical to that of other Federal law enforcement agencies.

Mr. Speaker, the reform package also includes legislation to create a civilian position entitled "Director of Employment Practices." This legislation was adopted in June, and the search for an individual to fill this position is now underway. The application deadline is October 3, 1990.

Mr. Speaker, I would like to inform the House of the other reforms that the subcommittee has been implementing. The internal grievance procedure has been modified and enhanced in order to address the officers' concerns; the addition of the position of Director of Employment Practices will ensure an expedited grievance process; all special technician positions are now competitive; and educational assistance seminars will be instituted.

Finally, Mr. Speaker, we would not have reached this point without the constant support and assistance of the subcommittee's ranking minority member, the Honorable PAT ROBERTS. Without his personal interest, diligence, and perseverance, this reform package, in its most complete form, would never have been instituted and implemented.

Mr. Speaker, upon enactment, the computation of retirement for the U.S. Capitol Police force will be changed from its current application pertaining to years of service.

Regarding immediate retirement, an employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police, or a combination of other Federal law enforcement service, is entitled to an annuity.

Regarding mandatory separation, a member of the Capitol Police who is otherwise eligible for immediate retirement, shall be separated from the service on the last day of the month in which the employee becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board may exempt a member from automatic separation until the employee becomes 60 years of age. Mandatory separation does not take effect for 2 years after enactment of this legislation.

In 4 years, the computation rate will change so that Capitol Police officers will have their annuities computated identical to that of Federal law enforcement agencies.

COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, DC, September 19, 1990.

Hon. FRANK ANNUNZIO,
Chairman, Committee on House Administration, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: This refers to your letter of today concerning H.R. 5641 (Capitol Police Retirement Act of 1990) which has been jointly referred to our Committees.

I understand that H.R. 5641 was ordered reported today by the Committee on House Administration and that you desire to request consideration of the bill by the House under suspension of the rules on Monday, September 24.

We have carefully considered the provisions of H.R. 5641 and fully concur in the substance of those provisions. Therefore, in the interest of expediting the business of the House, the Committee on Post Office and Civil Service will interpose no objection to the consideration of the bill by the House, provided such consideration will not imperil or in any other manner affect the jurisdiction of this Committee as established by House Rule X, clause 1(o).

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1990.

Hon. MARY ROSE OAKAR,
Chair, Subcommittee on Personnel and Police, Committee on House Administration, U.S. House of Representatives, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the attached cost estimate of the amendment to H.R. 5109, the Capitol Police Amendments Act of 1990, as introduced and referred jointly to the Committees on House Administration and Post Office and Civil Service on June 21, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 13, 1990

1. Bill number: None.

2. Bill Title: Capitol Police Retirement Act of 1990.

3. Bill status: An amendment in the nature of a substitute to H.R. 5109, as introduced and referred jointly to the Committees on House Administration and Post Office and Civil Service on June 21, 1990.

4. Bill purpose: The purpose of this bill is to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

5. Estimated changes to CBO baseline:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Direct spending:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	1	1	2	3	4

The spending effects of this bill fall in Function 600.

BASIS OF ESTIMATE

This bill would change the retirement requirements and benefit computation for members of the Capitol Police. Under current law, Capitol Police must be 55 years old with 30 years of combined military and Capitol Police service, 60 with 20 years of combined service, or 62 with 5 years of combined service to retire with full benefits. Under the provisions of this bill, Capitol Police would be eligible to retire at the age of 50 with 20 years of combined law enforcement and Capitol Police service. In addition, Capitol Police would be mandatorily separated from service on the last day of the month in which they turned 55 years of age or completed 20 years of service if over that age. The mandatory retirement provision would be come effective 2 years after the date of enactment of the bill, assumed to be October 1, 1990.

On average, approximately 18 members of the Capitol Police retire each year. The Capitol Police provided information on the number of employees who would be eligible to retire in each fiscal year under the relaxed retirement requirements specified in the bill. Based on information provided by the Office of Personnel Management on the percentage of eligible employees that retire each year, this estimate assumes there would be approximately 145 extra retirees over the 5-year projection period. Approximately 85 percent of the extra retirees are estimated to elect a lump-sum payment of approximately $33,000. Under current law, beginning in fiscal year 1991, retirees may withdraw 100 percent of their contributions to the retirement system in the year they retire. Lump-sum payments would account for approximately $5 million of the estimated $11 million in direct federal spending over the projection period.

In addition, the annuity computation for Capitol Police would be changed from 2½ percent of high 3-year salary for all years of service to 2½ percent of high 3-year salary for up to 20 years of service and 2 percent of high 3-salary for all years of service over 20. The change would go into effect 4 years after the date of enactment of this bill. The change in the annuity formula would only affect service over 20 years that is performed after the effective date. Therefore, over the projection period, there would be an insignificant change in the average retiree's annuity.

5. Estimated cost to State and local governments: None.

6. Estmate comparison: H.R. 5109.

7. Previous CBO estimate: None.

8. Estimate prepared by: Cathy Ellman (226-2820)

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

AUGUST 29, 1990.

Hon. MARY ROSE OAKAR,
Chair, House Administration Subcommittee on Personnel and Police, Washington, DC.

DEAR MADAM CHAIR: The concern of the Members of the Subcommittee on Personnel and Police for the welfare of the United States Capitol Police Officers is greatly appreciated. We consider it a privilege to serve our country by serving the Congressional Community. It is an honor not lightly esteemed.

We support the efforts of the Subcommittee to provide the Capitol Police with a much needed retirement package, one that would be comparable with local law enforcement jurisdictions. Concerning this matter, it is our fervent hope that you would succeed in your endeavor.

Sincerely,

(Signed by Capt. R. F. Reginaldi and 653 others.)

□ 1540

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

Mr. Speaker, I am pleased to join Chairman OAKAR and my colleagues from the House Administration Committee in bringing H.R. 5641 to the floor for consideration.

As the ranking Republican member of the House Administration Subcommittee on Police and Personnel, I am most pleased that after years of work, hearings, and legislative effort, the House is acting on legislation to reform the retirement program available to members of the Capitol Hill Police. This change is certain to add credibility and professionalism to this law enforcement agency.

When I began my service on the House Committee on Administration 8 years ago, I was placed on the Subcommittee on Police and Personnel. During my first months, I began working with then-chairman, Congressman LEON PANETTA, on reviewing the Capitol Hill Police to develop reforms in an effort to enable this force to become more professional.

Last year, Congressman PANETTA relinquished his chairmanship of this subcommittee without completing many reforms that we advocated. However, Chairwoman OAKAR deserves great credit for bringing many of these ideas into reality.

I wish to thank both Congresswoman OAKAR and Congressman PANETTA for their efforts.

Congresswoman OAKAR's personal interest, dedication, and leadership were critical in bringing H.R. 5641 to the House floor today. We have worked closely together, and with members of the Capitol Hill Police, the Capitol Hill Police Board, and the Sergeant At Arms when drafting this bill.

As many in the House can personally attest, the individuals serving in the Capitol Hill Police Force are skilled, competent, and dedicated people. They are responsible for the safety of Members of Congress, Federal officials, Capitol Hill staff, and the thousands of visitors that come to the Nation's Capitol every day. This is an enormous and important task.

The retirement reform package contained in H.R. 5641 was developed with careful study and a public hearing was held in which more than 400 police officers provided testimony.

This bill is an effort to provide a retirement system to Capitol Hill Police officers that is comparable to retirement packages offered by law enforcement agencies in the surrounding Washington metropolitan area. It was developed after studying the retire-

ment packages provided by 10 other law enforcement agencies and it intended to bring parity to the Capitol Hill Police.

Chairwoman OAKAR has briefly explained the bill and the parameters in the retirement system that we are offering to change. I would urge my colleagues to support H.R. 5641. This reform is needed and long overdue.

Ms. OAKAR. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H.R. 5641, the Capitol Police Retirement Act of 1990. The Subcommittee on Compensation and Employee Benefits, which I am privileged to chair, has worked very closely with the gentlewoman from Ohio [Ms. OAKAR], the distinguished and forceful chairman of the Subcommittee on Personnel and Police, and I believe that we have produced a bill that provides retirement benefits comparable to those available to police departments in surrounding jurisdictions.

H.R. 5641 allows Capitol Police officers covered by the civil service retirement system to retire at age 50 with 20 years of Capitol Police service. Those officers covered by the Federal employee retirement system may retire at age 50 with 20 years of Capitol Police service, or at any age at 25 years of Capitol Police service. The benefits provided by the bill are similar to those offered to other Federal law enforcement officers.

Mr. Speaker, the members of the U.S. Capitol Police are responsible for protecting the Capitol, Members of Congress and their staffs, foreign dignitaries, as well as the millions of tourists who visit our country each and every year. Because of these responsibilities, the Capitol Police must undergo the same vigorous training that other Federal law enforcement officers endure. This training costs the taxpayer about $40,000 per recruit and makes the Capitol Police among the best trained forces in the country, and a very valuable asset to the U.S. Capitol. After receiving such training, many officers have left the force for the better pay and benefits offered by other police departments. The Capitol Police Retirement Act will help the Capitol Police attract and retain the best qualified and most dedicated employees.

Speaking of dedicated employees, Mr. Speaker, I would just like to reference by an anecdote, the dedication of some of these men and women. In June of this year, 2 members of the Capitol Police that most Members know very, very well, and I will refer to them only as Bobby and Freddie, were on duty on one of the blocks outside this building when a call came over the air that said something like, "Male, black, found dead in a van." They responded immediately. In that van they found a gentleman with a sleeve rolled up and a hypodermic needle stuck in his arm. They sensed he might still be alive. They pulled him out of the van, and on the ground they proceeded immediately, without hesitation, to beat on his chest, to breathe into his mouth, and to attempt to bring him back to life. The ambulance rushed him to the hospital, and in the emergency room the doctors worked on the man and came out and told Freddie and Bobby the good news and the bad news. The good news was that the man was alive and that their selfless act had indeed saved him. The bad news was that the gentleman was an intravenous drug user. The doctors in the hospital tried to persuade the man in question to undergo an AIDS test. He refused, as I suppose is his constitutional right, leaving these two dedicated employees of the Capitol Police, under the tremendous pain and anguish as to whether or not their act had indeed had a price that they had not intended to pay. I am happy to report that they have been tested several times, and everything seems to be OK with them. We pray that that will continue.

However, I spoke to them about a day or two afterward, and I said:

> Why did you do that, if the guy had a hypodermic needle sticking in his arm? Why did you put your face to his and breathe into his mouth with that kind of a risk?

and they said to me:

> That's our job. He might have just been a visitor to the Capitol who suffered from diabetes and went into insulin shock. It is our responsibility to make sure that we do the things that we were trained to do.

That is the kind of people that we have working for our Capitol Police Force, Mr. Speaker.

□ 1550

I want to thank both my colleagues, the gentlewoman from Ohio, the chairman of the Subcommitte on Personnel and Police of the Committee on House Administration, as well as the gentleman from Kansas, the ranking Republican of the subcommittee, for their work on H.R. 5641.

This bill is an unbelieveably important attempt to attract and retain those dedicated people to the Capitol Police Force, and I urge my colleagues to support the bill.

Ms. OAKAR. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Illinois [Mr. ANNUNZIO], the chairman of the House Administration Committee, without whose support this bill and the other reforms would not be possible.

Mr. ANNUNZIO. Mr. Speaker, I want to thank the gentlewoman from Ohio [Ms. OAKAR], the distinguished chair of the Subcommittee on Personnel and Police, for bringing this excellent piece of legislation to the floor, and I want to thank the gentleman from Kansas [Mr. ROBERTS], the distinguished ranking minority party member of the subcommittee, for his continuing contribution to the excellent work of the subcommittee and the full committee.

The bill, at long last, provides a well deserved recognition that each Capitol Police officer is at risk every day. The bill acknowledges that each officer is "on the line," whether he or she is inspecting packages, operating a dog team, engaging in an undercover operation, or performing some other law enforcement activity. Of course the Capitol Police officers also perform routine activities such as helping visitors to the Capitol, and controlling auto and pedestrian traffic. But no matter what duty an officer is performing today, he or she may be assigned to hazardous duty at any time, which places the officer at risk to life and limb. This bill finally recognizes that fact, by making the retirement coverage for the Capitol Police essentially equivalent to other Federal law enforcement bodies. I support the objectives of the bill, and urge each of my colleagues to vote in favor of this bill.

Ms. OAKAR. Mr. Speaker, I just want to conclude by thanking all the individuals responsible for these reforms, including our staff on both sides of the aisle.

I think with my minority leader, the gentleman from Kansas [Mr. ROBERTS] and I have worked so closely together, we never had any dissension, and I think it is a way that we do operate. I am very, very happy that this is coming about, so I want to thank our staff.

I want to thank the Sergeant at Arms and the Speaker's staff as well who really have been very, very helpful.

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

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

The SPEAKER pro tempore [Mr. MCNULTY]. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 5641.

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.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further

consideration of the bill—H.R. 5725—to extend the expiration date of the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

Mr. WYLIE. Reserving the right to object, Mr. Speaker, and I do not intend to object, I yield to the gentlewoman from Ohio to explain the purpose of her bringing H.R. 5725 to the floor at this moment.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for reserving the right to object and yielding to me so I can explain the legislation.

Mr. Speaker, the Defense Production Act [DPA] is scheduled to expire on September 30, which is this coming Sunday.

On September 24, the House passed its DPA reauthorization bill—H.R. 486—by a strong bipartisan vote of 295 to 119. The vote was consistent with the spirit of bipartisanship in the development of this bill, for the most part, during 3 years of hearings, research, consultations and drafting.

At full committee, an Oakar-Shumway amendment was adopted to perfect the bill, and the 39-to-8 vote to report the bill included a majority of Members of both parties in attendance.

During suspension proceedings, a further Shumway amendment was accepted and majority and minority counsels of the Judiciary Committee collaborated closely with Banking Committee staff to perfect two sections of H.R. 486 sought by the Energy Department that would make it possible to call up oil and gas industry executives for service in the National Defense Executive Reserve. Yesterday's action by President Bush, with respect to the strategic petroleum reserve, vividly underscores the need to enact these provisions.

This cooperative spirit was best exemplified by the ranking Republican member of the House Banking Committee, the gentleman from Ohio [Mr. WYLIE] whose strength, patriotism, and legislative skills are assets to his party, his State, and our country. I salute Mr. WYLIE for his role in the House passage of H.R. 486. Since the Senate has not completed its work on its counterpart Defense Production Act bill, S. 1379, the bill before the House today—H.R. 5725—would extend Defense Production Act until October 20, 1990. This should allow time for Senate action, and for the House, Senate, and the administration to reconcile the differences. Our intent is to enact substantive amendments to DPA for the first time since 1984. Legislative counsel informs us that the bill is in proper form to authorize continued expenditure of appropriations during the interim period.

This extension is sponsored by the chairman and ranking minority member of the full Banking Committee, Mr. GONZALEZ and Mr. WYLIE, and the Chair and ranking minority member of the Subcommittee on Economic Stabilization, myself, and Mr. SHUMWAY.

There is, I believe, complete unanimity that the authorities of the Defense Production Act should not be allowed to expire. Contract priorities under title I of DPA directly support production of such frontline weapons systems as armored personnel carriers, patriot air defense missiles, and chemical protective gear—all crucial for Operation Desert Shield.

Expiration of these authorities would imperil lives of U.S. fighting forces in the field. Also, industrial firms producing these items would be subject to adverse legal action for giving priority to military requirements over preexisting contracts.

For all of these reasons, I ask that this bill to extend the Defense Production Act until October 20 be adopted at this time.

Mr. WYLIE. Further reserving the right to object, Mr. Speaker, I strongly support this reauthorization.

As the gentlewoman has said, the House has already acted by passing H.R. 486. Unfortunately, the Senate has not been able to act so far, so it becomes necessary for us to pass this temporary short-term extension until October 20, 1990.

As we mentioned when the other bill was brought to the floor, this act is vital to our military operations in the Middle East. There are weapons being used there right now which are being purchased through this act. If the act expires, both our troops and defense contractors will be put at risk.

I would like to say that I appreciate the hard work and the conscientious effort and persistence which the gentlewoman from Ohio has put into bringing this bill here today. It has been a pleasure for me to work with the gentlewomen to solve this problem.

Missile shipping containers: The military services do not have enough containers to shop tactical missiles to U.S. forces in the Mid-East. The container manufacturer is experiencing a shortage of materials needed for their fabrication. Commerce is using its title I priorities and allocations authority under the DPA to require five suppliers to expedite deliveries of these materials.

Radio and amplifier systems for satellite communications: Expedited deliveries of special satellite communications systems, including amplifiers to boost signal strength, are required by the Air Force. Commerce is using its title I priorities and allocations authority under the DPA to direct the manufacturer to surge production and to divert deliveries to meet Air Force requirements.

Tempested lap top computers for battlefield use: Tempested lap top computers for communications that can withstand the harsh desert environment are urgently required. Commerce is using its title I priorities and allocations authority under the DPA to surge production of these computers and to divert deliveries to meet the most urgent military requirements.

Defense electronic countermeasure pods for Navy and USAF aircraft: Added countermeasure capability is required for both Navy and Air Force aircraft deployed to the Mid-East. There is a shortage of materials needed to made the modifications. Commerce is using its title I priorities and allocations authority under the DPA to surge production of these materials by suppliers and to provide the pod manufacturer with additional production equipment needed to increase output.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I just would like to thank the gentleman from Ohio. It is always a pleasure to work with someone from my own State. I am very proud the gentleman is the minority leader of the full committee. I thank the gentleman so much for his cooperation.

Mr. WYLIE. Mr. Speaker, I acknowledge and appreciate the compliment.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 5725

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

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The 1st sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1990" and inserting "October 20, 1990".

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

INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2006) to expand the powers of the Indian Arts and Crafts Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2006

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 "Indian Arts and Crafts Act of 1990".

SEC. 2. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows:

"(g)(1) to create for the Board, or for an individual Indian or Indian tribe or tribal organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or tribal organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe or group without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 3. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 4. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' have the meaning given such terms in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

SEC. 5. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages;

"(B) in the case of each aggrieved purchaser, liquidated damages of not less than $1,000 for each occurrence of any such offer, display, or sale; or

"(C) in the case of each aggrieved individual Indian, Indian tribe or tribal organization, or competing producer, supplier, or retailer, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or tribal organization;

"(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of a tribal organization; and

"(C) by any person aggrieved by any such offer, display, or sale.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe or tribal organization, or person concerned, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' have the meaning given such terms in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 6. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other

than an individual, be fined not more than $5,000,000; and (3)".

SEC. 7. CERTIFICATION OF INDIAN ARTISANS.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 2006, the bill now under consideration.

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

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

Mr. Speaker, I am pleased to join with the distinguished gentleman from Arizona [Mr. RHODES], my good friend, especially also the very distinguished gentleman from Arizona [Mr. KYL] and the gentleman from Colorado [Mr. CAMPBELL], who have been the chief sponsors of H.R. 2006. I am pleased to bring before the House this bill to expand the powers of the Indian Arts and Crafts Board.

The purpose of this bill is to protect Indian artists from unfair and fraudulent competition from counterfeit arts and crafts products. The bill amends and strengthens current law as established under 25 U.S.C. 305A which creates and sets forth the powers and duties of the Indian Arts and Crafts Board. In addition, it increases penalties for counterfeiting and misrepresentation.

This bill is needed for several reasons. First, we need to protect the existing market against imports which are undermining and threatening the livelihood of thousands of Indian artists. In a 1985 report to Congress, the Commerce Department estimated that unmarked imported imitations of Indian arts and crafts are siphoning off anywhere from 10 to 20 percent of the market for genuine handicrafts produced domestically by American Indian artists. The industry's value has been estimated at $400 to $800 million annually. This means that Indian artisans are losing an estimated $40 to $80 million a year.

Second, Mr. Speaker, in order to discourage further fraudulent sales to unsuspecting customers, we need to assure that steps are taken to provide meaningful deterrents to those individuals who are knowingly misrepresenting themselves in the market.

□ 1600

Mr. Speaker, this bill was jointly referred to the Interior and Judiciary Committees. Mr. Speaker, let me briefly summarize the amendment of the Judiciary Committee which is now before you. H.R. 2006 allows the Secretary of the Interior through the Indian Arts and Crafts Board to register trademarks with the U.S. Patent Office on behalf of an Indian tribe, Indian organization or Indian individual. The bill also broadens the authority of the Board to receive complaints and refer alleged violations to the FBI and the U.S. attorney. In addition, at the suggestion of the Department of Justice, the bill amends title 18 sections 1158 and 1159 to make the penalties for counterfeiting and misrepresentation of Indian arts and crafts comparable to similar penalties in the United States Code. Finally, the bill amends title 25 to establish a civil cause of action against persons who display for sale or sell goods which falsely claim to be Indian made. This action can be brought by the U.S. attorney, a tribe, or any aggrieved person.

Mr. Speaker, this bill has bipartisan support and I urge passage of the bill.

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

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

Mr. Speaker, I rise in support of H.R. 2006, a bill to expand the powers of the Indian Arts and Crafts Board. H.R. 2006 is the product of the combined efforts of the House Interior Committee and the House Judiciary Committee, and provides increased protection to Indian artisans from counterfeit arts and crafts.

Other Members will elaborate more specifically on the positive and beneficial features this bill has for American Indian artisans. I would like to focus my remarks on the relevance this bill has within the framework of current Federal Indian policy.

Both the Nixon and Reagan administrations issued major Indian policy statements. The Nixon Indian policy statement articulates a policy of self-determination for Indians and Indian tribes. The Reagan Indian policy statement reaffirmed the policy of self-determination, but augmented it with the policy of economic self-sufficiency for Indians and tribes. The Bush administration has indicated these worthwhile policies remain intact in the current administration. Congress' endorsement of these policies is reflected in the multitude of legislative actions we've taken during this and previous Congresses with regard to American Indians.

I would like to explain why I believe H.R. 2006 particularly exemplifies the Federal Indian policy of economic self-sufficiency.

The Commerce Department issued a report in 1985 estimating that unmarked import imitations of Indian arts and crafts are siphoning off 10 to 20 percent of the market for genuine handicrafts produced domestically. The industry for genuine Indian arts and crafts has been estimated at $400 to $800 million annually. Accordingly, the marketplace competition of imitation native American handicrafts siphon an estimated $40 to $80 million from genuine American Indian artisans.

Using the 1985 commerce report as the backdrop, H.R. 2006 was shaped by the two committees to address the economic impact that results from the infusion into the domestic marketplace of imitation Indian arts and crafts. Specifically, the bill expands the criminal penalties for misrepresentation of a product as Indian produced, and improves the civil remedies available to aggrieved Indian artisans. In addition, the bill enhances the ability of the Indian Arts and Crafts Board to register trademarks on behalf of Indian artisans and to pursue or defend violations of such trademarks.

There is one final point I feel compelled to make. H.R. 2006, as reported by the House Interior Committee, would have preempted States from enacting and enforcing their own laws with respect to imitation Indian arts and crafts. At the time, it was felt that a uniform, national standard was the best approach. Upon further reflection, and based on correspondence received from concerned State legislators, it became apparent that many States are ahead of the Congress with regard to enacting legislation designed to protect genuine Indian arts and crafts. Accordingly, the section in the bill that would have preempted State legislative actions in this field has been deleted. I am pleased that many State legislatures, including the Arizona State legislature, have felt it important to help protect local Indian commerce from fraudulent competition coming from foreign and domestic sources. I am optimistic that the provisions of H.R. 2006, along with complementary State legislative initiatives, will go a long way toward providing the proper level of economic protection to the very beautiful and valuable handiwork of our American Indian artisans.

For all of the reasons I have described, I urge my colleagues to support the enactment of H.R. 2006.

Mr. Speaker, I want to congratulate the gentleman from Colorado [Mr. CAMPBELL] and the gentleman from Arizona [Mr. KYL] for producing this legislation.

Mr. Speaker, like so many things that happen in this House, it started out simple and got complicated, but they were persistent, patient, and their handiwork has paid off.

Mr. Speaker, I am pleased to advise that the minority on the Committee on the Judiciary joins with the Committee on Interior and Insular Affairs in favor of the reporting out of this bill.

Mr. Speaker, I yield such time as he may consume to the my friend and colleague, the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Arizona [Mr. RHODES] for his comments.

Mr. Speaker, I rise in support of H.R. 2006, the Indian Arts and Crafts Act of 1990.

This legislation, which I introduced last year with my friend from Colorado, Congressman BEN NIGHTHORSE CAMPBELL, will strengthen current law to better protect Indian arts and crafts from counterfeiting and misrepresentation in the marketplace.

Misrepresenting products as genuine Indian is not only an unfair marketing practice that shortchanges consumers; it is a threat to the historical and cultural traditions that are entailed in the manufacture of Indian arts and crafts.

For example, if Indian artisans have to increase productivity at the expense of time-honored manufacturing techniques and traditions in order to compete with cheaper representations, an important part of Indian heritage will be compromised and lost.

Mr. Speaker, there are two main components to this legislation. First, the bill will enhance the ability of the Indian Arts and Crafts Board at the Department of the Interior to obtain trademarks for Indian artisans and thus help them distinguish their works in the marketplace. The expanded use of trademarks will assist consumers in determining what is genuine Indian and what is not.

Second, the bill gives some teeth to enforcement against misrepresentation and counterfeiting. It strengthens criminal penalties for violations. And, it provides new civil remedies by which aggrieved persons can obtain injunctive relief and monetary damages.

The most difficult issue we have struggled with as this legislation moved through the Interior and Judiciary Committees was the question, "Who is Indian?" for purposes of the act.

It was important for us to deal very carefully with this question for two reasons. First, consumers will make decisions about authenticity based, in part, upon the provisions of this act. Second, and more importantly, how we define the term can and will affect the livelihoods of many artisans.

The definitions in the bill were derived after lengthy consultations with the Interior and Justice Departments, Congressman CHARLIE ROSE and HOWARD COBLE, and members of the arts community, to name a few.

The bill before us today defines "Indian" as a member of a federally recognized tribe, or a tribe recognized by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

Recognizing that some persons may not be members of such tribes for one reason or another, but that they are still Indian, the bill also allows tribes to certify individuals as Indian artisans for purposes of the act. Establishing criteria for such certification is rightly left with the tribes. If an individual is claiming descendancy from the Hopi Tribe, for example, but is not a member of the tribe, the tribe ought to have the opportunity to review the circumstances and decide whether or not the claims are valid.

This certification authority is made available to the tribes to deal with special circumstances. If they ignore the authority and leave people who have legitimate claims hanging, I won't hestitate to revisit this issue in the future.

Before concluding, I want to thank Chairman UDALL, Chairman BROOKS, and Mr. KASTENMEIER for their support and assistance in bringing this legislation to the floor.

I also want to thank our colleagues, CHARLIE ROSE and HOWARD KOBLE for their help and contributions especially on the definition question and also Bob Hart and Geoff Stamm of the Indian Arts and Crafts Board of the Department of the Interior and my father, John Kyl, a former Representative from Iowa, the Fourth District, for his ideas and inspiration for this legislation.

Mr. Speaker, this legislation will go a long way to enhance confidence in the authenticity of Indian arts and crafts and will protect native American artisans from unfair competition from counterfeits and misleading marketing practices.

Mr. Speaker, I urge my colleagues' support.

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

Mr. Speaker, in conclusion, let me simply observe that the Office of Management and Budget has issued an administration policy in support of this legislation. The estimated cost to the Federal Government is in the neighborhood of $100,000 per year with no cost to the State and local governments.

I urge my colleagues to support the bill.

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

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

Mr. Speaker, I would like to thank both the distinguished gentleman from Arizona for their eloquent remarks in support of this legislation. Mr. KYL is one of the chief sponsors of this bill.

I would be remiss if I did not recognize the tremendous work that has been done by the staff on both sides, Tim Glazewski, Tadd Johnson, Frank Ducheneaux, and Cathy Wilson, for the tremendous work that they have done in putting the proper language and history and for a study that they have conducted to bring this piece of legislation successfully to the floor.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of H.R. 2006, the Indian Arts and Crafts Act. This legislation will improve the ability of American Indians to protect their arts and crafts against frauds and counterfeits. It will do so in three ways: first, by facilitating the development and registration of trademarks for Indian arts and crafts; second, by providing criminal penalties for misrepresenting Indian goods or counterfeiting Indian trademarks; and third, by providing a civil action enforceable by the Attorney General or the aggrieved artisan or his tribe, against persons who represent goods as Indian made when they are not.

This bill was jointly referred to the Committee on Interior and Insular Affairs and the Committee on the Judiciary. The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, made a limited number of changes to the bill in response to suggestions from the Departments of Commerce, Justice, and Interior, among others. Those changes were made with the complete cooperation and assistance of the Interior Committee, and the result is a sound, essentially noncontroversial piece of legislation.

I am pleased to have played a small part in moving this bill through the House. It is, however, the bill's sponsors—the gentleman from Arizona [Mr. KYL] and the gentleman from Colorado [Mr. CAMPBELL]—together with the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], who deserve the credit for this initiative. This bill is the culmination of a truly bipartisan effort that will provide much needed support and protection for an irreplaceable part of American culture, and a valuable national resource: native American arts and crafts. I enthusiastically support H.R. 2006.

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

The SPEAKER pro tempore (Mr. McNULTY). The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the bill, H.R. 2006, 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.

□ 1610

VICKSBURG NATIONAL MILITARY PARK EXPANSION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2437) to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes, as amended.

The Clerk read as follows:

S. 2437

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

TITLE I—VICKSBURG NATIONAL MILITARY PARK

SEC. 101. ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK.

(a) GRANT'S CANAL, LOUISIANA.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) WARREN COUNTY, MISSISSIPPI.—(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) BOUNDARY REVISION.—Upon acquisition of the properties referred to in subsections (a) and (b), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in this title referred to as the "park") to reflect the inclusion of such properties within the park.

SEC. 102. EXCLUSION OF LANDS FROM PARK.

(a) EXCLUSION OF CERTAIN LANDS.—The park boundary is hereby revised to exclude those lands depicted as "Proposed Deletions" on the map entitled "Vicksburg National Military Park" numbered 306-80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) TRANSFER TO ADJACENT OWNERS.—(1) For a period ending four years after the date of enactment of this title and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) EXCESS PROPERTY.—Any lands not conveyed pursuant to subsection (b) shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 103. PARK INTERPRETATION.

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and seige of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—MINNESOTA PUBLIC LANDS

SECTION 201. SHORT TITLE.

This title may be cited as the "Minnesota Public Lands Improvement Act of 1990".

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress hereby finds and declares that—

(1) within the State of Minnesota there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Minnesota is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Minnesota there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of Minnesota of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest.

(b) PURPOSES.—This title is intended to provide for better management of public lands located in the State of Minnesota by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Minnesota and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

SEC. 203. DEFINITIONS.

As used in this title—

(a) the term "listed uplands and islands" means those public lands located in the State of Minnesota which are specified in the list containing the legal description of such lands and entitled "Minnesota Uplands and Islands Appropriate for State Management" dated July 16, 1990, on file in the Office of the Secretary of the Interior, except for any lands to which Indian title has not been extinguished;

(b) the term "public lands" means federally owned lands or interests therein managed by the Bureau of Land Management;

(c) the term "claim" means a good faith assertion by a party other than the United States that—

(1) such party has title to a parcel or tract of land, or

(2) a parcel or tract of land is held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe;

(d) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(e) the term "Secretary" means the Secretary of the Interior; and

(f) the term "State" means the State of Minnesota.

SEC. 204. GRANT TO STATE.

(a) UNCLAIMED AREAS.—Effective one year after the date of enactment of this Act and subject to its terms and conditions, the right, title and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in Lake Superior, inland lakes and rivers, and other bodies of water within the State which as of one hundred and eighty days after the date of enactment of this Act were not subject to any claim identified on the records of, or filed with the Bureau of Land Management, are hereby granted to the State.

(b) CLAIMED AREAS.—Any listed uplands and islands which were subject to a claim identified on the records of, or filed with the Bureau of Land Management as of one hundred and eighty days after the date of enactment of this Act, may be sold by the Secretary to the claimant or claimants thereof under section 205 of this Act. No later than one year after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or

claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States, subject to the following exceptions:

(1) The ten-year period shall be tolled during pendency of any administrative appellate review of a decision by the Bureau of Land Management or of any judicial review of a final decision by the Secretary; and

(2) The Secretary may transfer lands to the State earlier than ten years after the date of enactment if a claim for said lands has been rejected or disallowed for any reason, or forfeited by the claimant.

(c) PRIOR TRANSFERS.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this title on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this title.

(2) Upon reversion and acceptance of public land in Minnesota which prior to the date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies and bureaus, and upon request of the State, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this title.

(3) If, in order to bring lands under the provisions of this title, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall accept such relinquishment and shall transfer such relinquished lands to the State under and subject to the provisions of this title. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 205. RESOLUTION OF CLAIMS.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Minnesota to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans, if any, developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey. No cost incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURES.—

(1) This section shall apply only to tracts specified in subsection 204(b) of this Act, and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the country where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 206. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this title shall be subject to the reservation to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 205 of this title the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this title shall not be conveyed or otherwise transferred by the State to any person or entity other than the United States or a political subdivision of the State.

(2) The lands granted or otherwise transferred to the State under this title shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this title to any person or entity other than the United States or a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this title (and conveyed or otherwise tranferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this title (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this title are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

(5)(A) If any land, or portion thereof, granted or otherwise conveyed to the State or political subdivision of the State shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601), or if such land, or portion thereof, has been used for purposes that the Secretary finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or release of any hazardous substance, the State or political subdivision of the State shall be liable to pay to the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary pursuant to this subparagraph shall be retained by the Secretary and used, subject to appropriations, for the management of public lands and shall remain available until expended.

SEC. 207. NOTICE AND ENFORCEMENT

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this title.

(2)(A) The State, or a political subdivision thereof, shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this title. In the event that such notice is not received within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this title.

(3) The Secretary shall maintain in the appropriate office of the Bureau of Land Management a current listing of the lands granted or otherwise transferred to the State under this title, including a record of which, if any, of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this title or that actions have occurred which have had the effect of causing the reversion to the United States of some of all of the lands granted or otherwise transferred to the State under this title.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the lands granted or otherwise transferred to the State under this title has reverted to the United States pursuant to this title, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 206(b)(2) of this title.

(4) Any lands which may revert to the United States under this title shall be retained and managed by the Secretary for the purposes specified in section 206(b)(2) of this title .

SEC. 208. HUNTING AND FISHING.

Nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Minnesota with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this title, or as increasing or diminishing any rights with respect to hunting, gathering, or fishing on such lands arising under any Treaty or other agreement between the United States and any Indian tribe or individual.

SEC. 209. CONFORMING AMENDMENT.

(a) Subsection 3(d) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is hereby amended by striking the period at the end of paragraph (1) of such subsection and by inserting in lieu thereof, ", and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.".

(b) Subsection 4(b) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is amended—

(1) by inserting "the United States or" after "any person or entity other than" in paragraph (1); and

(2) by inserting "the United States or" after "any person or entity other than" in subparagraph (3)(A).

TITLE III—FLORENCE BROWN RELIEF ACT

SECTION 301. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., Section 18, NE ¼ SW¼.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, the campaign and siege of Vicksburg were critical to the Union securing control of the Mississippi River, thereby cutting the Confederacy in half. As part of that effort, General Grant tried to divert the mighty Mississippi so that the Confederate artillery of Vicksburg couldn't fire on the Union Navy. That effort, now known as Grant's Canal, while ultimately unsuccessful, shows the tenacity of the Union in securing Vicksburg and the river. The Confederates finally surrendered on July 4, 1863—the same day as their defeat at Gettysburg. The Union occupied Vicksburg for the rest of the war, and during reconstruction as well.

S. 2437 authorizes the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park. It also authorizes the deletion of some 10 acres and provides for the Park Service's assistance in relocation of a maintenance facility. The committee adopted an amendment in the nature of a substitute that directs the National Park Service to interpret more broadly Vicksburg's history in the Civil War and reconstruction. The history of reconstruction—an important period in American history—has been inadequately included in the National Park System. Vicksburg provides an excellent location for helping to interpret that part of our past.

The amendment also added a new title, title II, consisting of provisions essentially identical to those in H.R. 2783, the Minnesota Public Lands Improvement Act, as passed by the House last year. That bill was cosponsored by the entire Minnesota delegation, on a bipartisan basis. It would provide for transfer to the State the management of a number of scattered parcels of public land in Minnesota, and would give the Secretary of the Interior additional authority to resolve title problems affecting a number of parties in the State. The bill was not controversial, but has been held up because the Senate added an unrelated amendment dealing with changes in the licensing of certain nuclear reprocessing facilities. I had hoped that disagreements about that Senate provision could have been worked out so as to allow us to complete action on the bill, but that has not occurred, and so I am proposing to expedite matters by including the noncontroversial Minnesota proposals in this bill.

Finally, Mr. Speaker, the committee included in the bill provisions identical to those of H.R. 1330, by the gentleman from California [Mr. LAGOMARSINO]. That bill has been separately reported by our committee, but its inclusion in this bill should expedite its final approval. This part of the bill before us, title III, is noncontroversial. It would provide for clearing the title of a tract of about 40 acres near Goleta, CA, by the quitclaiming to its occupant of all right, title, and interest of the United States. The lands have evidently never been regarded by the United States as anything but private property, but that status has been questioned through recent actions by the Forest Service. This will resolve the situation, in a way that is acceptable to all concerned.

Mr. Speaker, this is a sound, worthwhile bill that deserves approval. I urge its passage by the House.

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

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

Mr. Speaker, I rise in support of S. 2437, a bill which would expand Vicksburg National Military Park, improve management of public lands in the

State of Minnesota and provide for the relief of Mrs. Florence Brown.

Mr. VENTO has already adequately described the first two titles of this measure and I would only add one further comment. I am concerned that with this bill we are breaking a longstanding tradition and purchasing lands already in the public domain for addition to a National Park Service area. While this bill provides for such compensation in an indirect manner, by compensating a county government in terms of cash and services for lands to be donated, the effect is the same. Not only does this reverse past acquisition practices, but I fear it will establish expectations on behalf of the county that it will be compensated soon. It is not clear that funds will be made available in the near future to enable the National Park Service to accept donation of lands which the agency states have no particular historical significance.

Title III of this bill provides relief for Mrs. Florence Brown of Goleta, CA. Mrs. Brown was informed in 1982 that land she had owned, improved and occupied for 40 years was suddenly being claimed by the Forest Service. The circumstances giving rise to this title problem originate from the 1897 In Lieu Selection Act, under which the Forest Service was attempting to consolidate its land holdings. Private parties were encouraged to relinquish their lands within newly created forest reserves and select other Federal lands in lieu thereof. However, for a variety of reasons, many of these selections were never consummated and the private persons ended up retaining their original lands.

Mrs. Brown's lands were offered for such a trade in about 1905. However, when that trade was not consummated, the original owner retained and continued to use his original lands. Mrs. Brown subsequently purchased those lands in 1945. In 1982, as the Forest Service was reviewing its land records, it determined that Mrs. Brown's lands, which had been conditionally relinquished to the Federal Government in 1985, were not claimed in ownership by the Federal Government under the Sisk Act of 1960.

The administration recognizes that these lands belong in equity to Mrs. Brown, however, absent authority provided under this act, the Forest Service cannot clear her title. This same problem exists for several hundred landowners across 11 western States and the current remedy is to pass private legislation to address each case. I have introduced additional legislation which would address the problem generically, which I hope to bring before this body in the near future.

I urge my colleagues to join me in supporting this bill.

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

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, the Vicksburg National Military Park was established by Congress in 1899 "to commemorate the campaign, siege, and defense of Vicksburg" during the American Civil War. Of course, the Civil War is now the subject of a very important documentary, on public television. Vicksburg's location on the Mississippi River made it strategically important during the Civil War. Gen. Ulysses S. Grant began his campaign against Vicksburg by advancing down the west bank of the Mississippi River, with plans to cross the river below Vicksburg and capture the city from the east. Grant's plan was successful. The Confederate soldiers were completely cut off from food supplies and reinforcements, and they were suffering mounting casualties and sickness. On July 4, 1863, the bloody Battle of Vicksburg had been won by the Union army; and for the rest of the war, the Union forces had the upper hand.

The history of Grant's Canal, one of the properties to be acquired by the Vicksburg National Military Park, is one of the Civil War's most famous stories. Grant's Canal was dug in an effort to change the course of the Mississippi River to allow by-passing the Confederate batteries at Vicksburg.

Mr. Speaker, the Vicksburg National Military Park is vital to the understanding of the role that Vicksburg played in the Civil War. During my youth, the nearby national military park was an unsurpassed source of education of the bloody battle that was a critical turning point in the war—to touch the cannons that actually fired, to see the monuments to the men who died so violently, to witness history. It is fitting that the Congress should now act to expand this historic resource and I urge passage of the bill, S. 2437, to authorize the expansion.

Mr. VENTO. 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 Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2437, 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.

The title of the Senate bill was amended so as to read: to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.

A motion to reconsider was laid on the table.

CONVEYING CERTAIN LANDS IN OREGON TO THE ROGUE COMMUNITY COLLEGE DISTRICT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1738) to convey certain Oregon and California Railroad Grant Lands in Josephine County, OR, to the Rogue Community College District, and for other purposes.

The Clerk read as follows:

S. 1738

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

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27, southwest ¼, northeast ¼.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(a) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(b) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(c) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

(d) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, this is a noncontroversial Senate-passed bill. It deals with about 40 acres of Federal lands, in western Oregon, now occupied by a local community college.

These lands were formerly a Job Corps site. For a number of years, they have been leased by the Bureau of Land Management [BLM] to the community college. The college would like to own the lands, but BLM does not have the authority to convey or otherwise transfer title.

The bill would direct that title to the lands be transferred to the college, without consideration, subject to reversion to the United States if the lands cease to be used for educational purposes. The United States would reserve all the minerals in the lands.

Mr. Speaker, I believe that this bill merits approval. I know of no opposition or controversy connected with it, and I urge its passage by the House.

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

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

Mr. Speaker, I wish to be recognized on S. 1738, a bill to transfer approximately 40 acres of Bureau of Land Management land to Rogue Community College. This bill would allow an existing community college, that has been leasing this land since 1970, to acquire the title to the land as long as it remained as a college or for educational purposes.

This legislation is needed because these lands are a part of the Oregon and California railroad grant lands, which are prohibited from being sold. All mineral rights would be reserved to the United States.

The administration supports the purposes of this bill. The Rogue Community College has been successfully involved in creating this center of learning, utilizing existing structures once occupied by the Job Corps, and given to the college in 1971.

I support this transfer of land to a successful operation of a local community college.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, I thank the chairman and the ranking member for bringing forth this legislation. It is a little bill with a big heart, and it ought to be passed. It passed the Senate, so let us get on with it. It is good for Oregon and good for the country.

Mr. Speaker, I want to express my support for legislation to convey a small parcel of Oregon and California grant land to the Rogue Community College in Josephine County, OR.

S. 1738, which is virtually identical to legislation I introduced in the House, would convey to the college a 40-acre parcel of O&C land presently administered by the Bureau of Land Management. While Rogue Community College owns a number of buildings located on the parcel, the land itself is leased to them by the Federal Government. In order for the college to justify major investments in new facilities, it needs the certainty that comes from owning the land it occupies.

It was originally thought that this transfer could occur through the provisions of the Federal Property and Administrative Services Act. Under these provisions, the property would be transferred to the General Services Administration, deemed surplus, and sold to the college.

While this scenario was supported by the BLM, the GSA was unable to implement the transfer sale due to the property's special designation as O&C land. Because O&C lands are required public domain lands, they cannot be disposed of under current law. Therefore, conveying title to the land occupied by the college requires the legislation we are considering today.

Many of our colleagues are aware that the primary use of O&C land is timber management. However the land now occupied by the Rogue Community College is identified as incapable of reforestation. Accordingly, its transfer to the college would in no way diminish the productivity of O&C lands.

In fact, I think just the opposite would occur. Educating young people is an enormous priority and I can think of no better use for a parcel of public land which is unsuitable for any land use. The college needs this land to make long-term plans and commitment to future growth and expansion—I urge my colleagues to support this legislation.

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

Mr. VENTO. 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 Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1738.

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

A motion to reconsider was laid on the table.

MAINE ACADIAN CULTURE PRESERVATION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1756) to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine, as amended.

The Clerk read as follows:

S. 1756

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 "Maine Acadian Culture Preservation Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize an important contribution made to American culture and history by the Acadian immigrants from France who settled in Nova Scotia and, following expulsion by the British in 1755, resettled in various North American colonies, including the territory that eventually became the State of Maine;

(2) assist local and State governments and other public and private entities in the State of Maine in interpreting the story of the State's Acadian settlers and their descendants as well as preserving Acadian music, arts, crafts, and folklore; and

(3) assist in identifying, gathering, and preserving sites, historical data, artifacts, and objects associated with the Acadians in Maine for the benefit and education of the public.

SEC. 3. MAINE ACADIAN CULTURE PRESERVATION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Maine Acadian Culture Preservation Commission (hereafter in this Act referred to as the "Commission"), which shall consist of 11 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") not later than 6 months after the date of enactment of this Act, as follows:

(1) One member, who shall serve as Chair, appointed from among recommendations submitted by the Governor of the State of Maine.

(2) One member appointed from among recommendations submitted by the Speaker of the House of Representatives of the State of Maine.

(3) One member appointed from among recommendations submitted by the President of the Senate of the State of Maine.

(4) One member appointed from among recommendations submitted by the Chancellor of the University of Maine System.

(5) Three members appointed from among recommendations submitted by State and local historic, cultural or historic preservation organizations.

(6) Four members who are nationally recognized experts in fields of history, anthropology, and folklore, appointed by the Secretary.

(b) TERMS—(1) Members of the Commission shall be appointed for terms not to exceed 3 years.

(2) The Secretary may stagger the terms of initial appointments to the Commission in order to assure continuity in operation.

(3) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while

away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) TERMINATION.—The Commission shall terminate 10 years from the date of enactment of this Act.

(g) SUPPORT.—The Director of the National Park Service is authorized to provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall advise the Secretary with respect to—

(1) the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 6; and

(2) the development and implementation of an interpretive program of the Acadian culture in the State of Maine pursuant to section 7(d).

SEC. 5. STUDY.

Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Commission, shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of Acadian culture in Maine.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this Act, the Secretary is authorized, after consultation with the Commission, to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance associated with the Acadian people in the State of Maine, pursuant to which agreements the Secretary may mark, interpret, restore, and provide technical assistance for the preservation of such properties and pursuant to which the Secretary may provide assistance, including management services and program implementation.

(b) RIGHT OF ACCESS.—Each cooperative agreement shall provide that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through such properties and interpreting them to the public.

(c) ALTERATION OF PROPERTIES.—Each cooperative agreement shall provide that no changes or alterations shall be made in the property covered by the agreement except by mutual agreement between the Secretary and the other party to the agreement.

SEC. 7. ACADIAN CULTURAL CENTER.

(a) IN GENERAL.—The Secretary is authorized, after completion of the study required by section 5, to establish a center for the preservation and interpretation of Acadian culture within the State of Maine.

(b) ACQUISITION OF LAND.—The Secretary is authorized to acquire lands and interests therein, not to exceed 20 acres in total, by donation, purchase with donated or appropriated funds, or exchange and to develop and operate facilities and programs at the center in furtherance of the purposes of this Act.

(c) OPERATION.—The Secretary may contract with public and private entities for the operation of the center in accordance with program standards approved by the Secretary.

(d) INTERPRETIVE PROGRAM.—In coordination with the Commission, the Secretary shall develop an interpretive program of the Acadian culture in the State of Maine.

(e) STATUTORY AUTHORITY.—The Secretary shall administer properties acquired and cooperative agreements entered into pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.) and other statutory authority for the conservation and management of natural, historical, and cultural resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—For the purposes of carrying out the functions of the Commission, there are authorized to be appropriated such sums as may be necessary, not to exceed $250,000.

(b) OTHER PURPOSES.—(1) To carry out the other purposes of this Act, there are authorized to be appropriated such sums as may be necessary, subject to the limitations of paragraph (2).

(2) With respect to cooperative agreements entered into pursuant to section 6, and the provisions dealing with the Acadian Cultural Center in subsections 7(a) through (c), the Secretary is authorized to expend not more than 50 percent of the aggregate cost of performing those functions. The remainder of such cost shall be paid by non-Federal funds.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

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

There was no objection.

□ 1620

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

The Acadians, as the French inhabitants of the area now New Brunswick, Canada, were known, were expelled from their homes by the British in 1755, and transported elsewhere. From 1755 to 1763, 14,000 people were removed. Acadians were moved to Louisiana, Quebec, other parts of Atlantic Canada, France, England, and other American colonies including Maryland, Virginia, Massachusetts, and present-day Maine. Thirty years after their original removal, some Acadians returned northward and settled in Maine and New Brunswick along the St. John River in the area known as Madawaska. We have all heard of the Acadians who, forced from their homes in Canada, ended up in Louisiana. We know much less about the Acadians who settled in present-day Maine. Amazingly enough, they have kept much of their original culture, a culture that enriches our Nation's diversity. This legislation directs the National Park Service to assist in the preservation and interpretation of that culture.

The committee adopted an amendment in the nature of a substitute that makes several changes to the bill. It adds three members with national perspective to the Commission, directs the Secretary to prepare and transmit a study of Acadian culture, and deletes the word "perpetuate" because that places a responsibility on the National Park Service it cannot fulfill. These changes provide greater guidance to the National Park Service in fulfilling its responsibilities under this legislation. They will help ensure the protection of Acadian culture and better allow the rest of us non-Acadians to understand that heritage. Mr. Speaker, I endorse S. 1756 and urge its passage.

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

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

Mr. Speaker, I wish to be recognized on S. 1756, a bill to establish the Acadian Culture Center in the State of Maine. As described by the chairman, this bill would establish a center for interpretation of the Acadian culture and authorize the Secretary of the Interior to enter into cooperative agreements to assist in the preservation of sites associated with the Acadian culture.

The administration strongly opposes this measure because it would establish a new unit of the National Park System which has not been the subject of any study. Before we establish a new unit of the National Park System, there are two basic questions to be answered. The first question concerns the national significance and condition of the resources. In this case, the administration has testified that they have no information regarding the resources to be incorporated within this area. The second question concerns the management framework to be applied at the site. To be successful, this management framework must be developed after a site-specific analysis of the resources, not simply adopted from another park unit.

Finally, I note that the bill contains no limitation on the amount of Federal funds to be authorized. Typically, Congress establishes ceilings for both land acquisition and development at park units. While the provision for 50-

50 cost-sharing at this site, will mitigate cost impacts to some extent, further justification appears to be warranted.

Based on my review of this bill, the administration opposition appears to be well-justified.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I'm pleased to be able to join in voicing my support for passage of the Maine Acadian Culture Preservation Act. It affords us the opportunity to help preserve—not embalm—an integral part of our State's heritage and present.

Traditional cultures, Mr. Speaker, face substantial pressures in modern day America. Mass communications, mass media, increased individual mobility—all of these facets of our society make the very survival of traditional cultures difficult.

Yet it is these very ethnic cultures which have given to this country the richness and diversity that makes America unique among nations. And it is the Acadian culture which, for three centuries now, has enriched, and helped shape the character of, my own State of Maine.

Maine's Acadians can look back proudly at the history of their culture in the St. John Valley. French settlers first started arriving in this area more than 200 years ago. These proud and resourceful people forged a living from the bounty of the land, prospering in the face of adversities that had forced other settlers to leave.

The Acadians of the St. John Valley faced adversities of a different sort. Beginning in the mid-1700's, Acadian settlers were forced to swear allegiance to the King of England or face deportation. Proudly refusing to renounce their heritage, thousands of Acadians were forced to leave the homes and communities they had built and relocated—many went back to Europe, while others started settlements elsewhere in the New World.

Fortunately, some Acadians remained in the area, and from these courageous few Maine's Acadian heritage has grown. A visitor in this region today can still hear the dialect of the Acadians almost as it existed back in the 1700's. Proud ancestors continued to hand down the stories, songs and legends that have been told for generations.

But the cultural forces of modern America, of which I spoke at the outset, imperil this vital legacy. And if we allow the Acadian heritage to be lost, we Mainers lose a part of ourselves as well. We should not permit that to happen.

S. 1756 takes an important step toward ensuring that the unique character of the Acadian culture is not lost. It provides for the creation of a commission to advise the Secretary of the Interior on conducting activities to interpret the story of the Acadians. It provides for cooperative agreements between the Interior Department and owners of significant Acadian properties and artifacts to ensure that these are not lost to the flood of development and change that marks today's society. Finally, S. 1756 would establish a Maine Acadian Culture Center for the purpose of educating the public about the Acadian culture.

Mr. Speaker, 2 years ago, the Congress established three Acadian Culture Centers in Louisiana. Those centers, though, can only address the end of the Acadians' journey; we should not overlook the contributions and experience of those who remained in northern Maine.

Today, we are not seeking a comparable three centers in Maine, but instead we are asking that an integral part of what makes Maine a special place to live be preserved. This legislation is a useful way of doing so, and I ask my colleagues for their support.

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

Mr. Speaker, in my opening statement I made an error. I just want to point out to Members that I am not trying to rewrite history. I understand that the French were actually in this instance forced by Britain in the New World to move around.

Mr. BRENNAN. Mr. Speaker, I rise today to express my strong support for the Maine Acadian Culture Preservation Act.

The Acadians were French settlers who first settled in the Canadian maritime provinces. During the 1750's they were forced out by the British; they resettled in Maine, a good many of them in the St. John Valley of northern Maine.

Since that time, Acadian culture and the Acadian people have been a unique part of Maine's historical heritage.

This bill will create a Maine Acadian Culture Preservation Commission, which will in turn establish a Maine Acadian Cultural Center, with the goal of preserving, perpetuating, and honoring Maine's Acadian culture.

The United States is, and always has been, a nation of immigrants. Each new citizen, each new culture, has broadened our perspective, and enriched our Nation.

This legislation will help preserve part of immigrant tradition that has made Maine, and the United States, a place where all can feel welcome.

By preserving Acadian culture, we in turn honor all cultures, and all those who have contributed to the development of our Nation.

I therefore strongly urge my colleagues to support the Acadian Culture Preservation Act.

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

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

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1756, 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.

AUTHORIZING EXCHANGE OF LANDS IN SOUTH DAKOTA AND COLORADO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4567) to authorize an exchange of lands in South Dakota and Colorado; as amended.

The Clerk read as follows:

H.R. 4567

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain lands located within or adjacent to the Black Hills National Forest in Lawrence and Meade Counties, South Dakota, are currently in private ownership;

(2) these lands, which are owned by Homestake Mining Company of California (hereinafter referred to as "Homestake"), are intermingled with National Forest lands and comprise potential valuable additions to the Black Hills National Forest to serve important public values and objectives, including but not limited to—

(A) public access and opportunities for hunting, fishing and other outdoor recreation;

(B) fish and wildlife habitat protection (including Blue Ribbon trout habitat in Spearfish Creek);

(C) the preservation of scenic beauty;

(D) public access to, and the enhancement of the outstanding scenic, natural and recreational values of Spearfish Canyon and other canyons within the Black Hills;

(E) protection of the scenic backdrop to the Spearfish Canyon National Forest Scenic Byway; and

(F) more efficient National Forest land management;

(3) such lands, if not acquired for addition to the Black Hills National Forest, maybe sold and developed for purposes which may be incompatible with the above mentioned objectives;

(4) Homestake has offered to convey such lands, which total approximately twelve thousand two hundred and seventy-four acres, to the United States by sale or exchange so that they may be managed for National Forest and land conservation purposes;

(5) Homestake has identified national forest lands in Summit County, Colorado, that—

(A) Homestake or local government units would like to acquire;

(B) are intermingled with or adjacent to privately owned and developed lands;

(C) are currently developed, permitted for ski area or local government purposes, or adjacent to developed or permitted areas or communities;

(D) are not necessary for retention in government ownership to serve the public in-

terest or objectives; and (E) are therefore suitable for disposal through a land exchange; and

(6) given the relative environmental and other values of the lands proposed for exchange in this Act, the land exchange set forth herein is clearly in the public interest and represents the land acquisition strategy that best meets dual public objectives of acquiring the Spearfish Canyon and other South Dakota properties, while at the same time minimizing or eliminating cash outlays by the United States to achieve such objectives.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, and expedite the consummation of the interstate land exchange and transfer set forth herein in order to further the public interest by acquiring lands in South Dakota with important values for permanent public management and protection and to transfer certain lands to non-Federal ownership in Summit County, Colorado.

SECTION 2. SOUTH DAKOTA-COLORADO LAND EXCHANGE.

(a) IN GENERAL.—If Homestake enters into an exchange agreement with the Secretary of Agriculture, the Secretary shall exchange lands with Homestake as set forth in this Act.

(b) CONVEYANCE BY HOMESTAKE.—Except as otherwise provided in this subsection, Homestake shall convey to the Secretary of Agriculture all right, title and interest of Homestake in certain lands in Lawrence and Meade Counties, South Dakota, that comprise approximately twelve thousand two hundred and seventy four acres. Such lands include approximately 1,250 acres of riparian lands in Spearfish Canyon that encompass some 20 miles of stream frontage on Spearfish Creek, and are generally depicted on maps entitled "Forest Service-Homestake Land Exchange—South Dakota Lands to Forest Service", numbered A-H, and dated February, 1990. In making such conveyance Homestake shall retain:

(1) All mineral rights in the above described lands owned, held or controlled by Homestake as of the date of enactment of this Act, except that—

(A) any future exercise of such mineral rights shall be subject to the provisions of 36 CFR 251-15 in effect on the date of enactment of this Act pertaining to surface and other use of lands conveyed to the Secretary of Agriculture where mineral rights are reserved; and

(B) that with respect to mineral rights retained in the approximately 1,250 acres of riparian lands within the watershed of Spearfish Canyon, any exploration and development of such rights shall be limited to methods and activities that do not disturb the surface of such lands. If such rights are ever proposed for exploration and development, the Secretary shall provide Homestake with such access or permits on, through, or under National Forest lands including, but not limited to permits for drilling, tunnels, air shafts, surface vents and other activities incidental to exploration or underground mining operations adjacent to such riparian lands as will reasonably permit exploration and development of the mineral rights without surface disturbance of such riparian lands or impairment of the values of Spearfish Canyon as set forth in this Act.

(2) All water rights within the watershed of Spearfish Creek and its tributaries owned, held or controlled by Homestake as of the date of enactment of this Act and shall exercise such rights in accordance with applicable Federal, State, and local law and in accordance with any subsequent cooperative agreements or undertakings entered into between Homestake, the Secretary, and the State of South Dakota for the protection and enhancement of the values of Spearfish Canyon as set forth in this Act.

(3) Cabin sites as indicated on the map numbered "A" referenced in this subsection within the watershed of Spearfish Creek and its tributaries that are intermingled with the lands to be conveyed to the Secretary of Agriculture but that are owned and permitted by Homestake to private parties and such sites will continue to remain in private ownership.

(c) CONVEYANCE BY UNITED STATES. —Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Homestake all right, title, and interest of the United States, except for mineral rights, subject to valid existing rights and existing National Forest improvements, in and to the following:

(1) Approximately eight hundred and sixty-eight acres of lands located in Summit County, Colorado, as generally depicted on maps entitled "Forest Service-Homestake Land Exchange—Lands to Homestake", numbered 1-3 and dated May 1990, and numbered 4-6 and dated March 1990, except that the lands identified on Map number 5 and generally known as the South Frisco Bay parcel shall not be patented to Homestake unless and until the Town of Frisco and Summit County, Colorado jointly agree to a land use plan for such parcel that emphasizes the use of such parcel for open space and recreation. If the South Frisco Bay parcel is not patented to Homestake within eighteen months after the date of enactment of this Act, the Secretary shall in lieu thereof either pay Homestake cash equalization moneys without regard to the 25% limitation contained in subsection 3(a) of this Act or offer Homestake monetary credits pursuant to that subsection, as the Secretary may find preferable.

(2) Not to exceed forty acres of lands located in Lawrence County, South Dakota, which currently comprise National Forest cabin permit sites, as generally depicted on a map entitled "Forest Service-Homestake Land Exchange—Spearfish Cabin Sites to Homestake", dated February 1990, that shall be sold to the current cabin permittees by Homestake at the value of such lands as determined by an appraisal done pursuant to section 3(b) plus any surveying, platting or other administrative costs incurred by Homestake to prepare and sell such lands, upon application by the permittees or their successors in interest. The transfer of any particular cabin site to Homestake pursuant to this subparagraph shall be contingent on the permittee's request of such a transfer. If such a request is not made, the site shall continue to be permitted by the Secretary in accordance with existing rules, regulations, and procedures.

(3) Mineral rights in the lands identified in this subsection shall not be conveyed to Homestake and, subject to valid existing rights, shall be withdrawn from further appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(d) RESERVATIONS.—Patents issued by the Secretary of the Interior for the lands conveyed pursuant to section 2(c)(1) shall reserve to the public, for administration by the Secretary of Agriculture or by such State or local units or agencies of government, or by private non-profit organizations, as the Secretary of Agriculture in consultation with local planning authorities determines appropriate and qualified to fulfill the purposes of the reservation—

(1) the right of access for fishing use along all streambeds (up to the ordinary high water mark) on streams which flow through the lands conveyed;

(2) a right-of-way for the Colorado Trail along its existing routes through the lands identified on Map 3 of the lands referred to in subsection (c) or along relocated routes as may be identified by the Secretary of Agriculture in consultation with local planning authorities;

(3) a right-of-way for relocation of the existing bicycle path through the lands identified on Map 2 of the lands referred to in subsection (c) to a new route as may be identified by the Secretary of Agriculture in consultation with local planning authorities.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by the payment of money to Homestake or to the Secretary subject to the 25 percentum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The Secretary shall try to reduce the amount of cash equalization to as small an amount as possible. In lieu of any cash equalization payments which may be due Homestake pursuant to this Act, the Secretary may elect to offer Homestake monetary credits, which shall be considered "moneys received" within the meaning of the Act of May 23, 1908, against any moneys owed the Secretary by Homestake or its agents for timber sales within the Black Hills National Forest. Any cash equalization moneys received by the United States pursuant to this Act shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (Public Law 90-171, 16 U.S.C. 484a), commonly known as the Sisk Act. The value of the surface development rights relinquished by Homestake on the 1,250 acres within Spearfish Canyon pursuant to section 2(b)(1)(B) shall be considered for all purposes of law a donation by Homestake to the United States and shall not be required to be appraised for purposes of value equalization or other provisions of this Act.

(b) APPRAISALS.—In order to expedite the consummation of the exchange directed by this Act, Homestake shall arrange and pay for appraisals by a qualified appraiser or appraisers mutually acceptable to Homestake and the Secretary of all lands and interests therein to be included in the exchange for which appraisals are required for purposes of this Act. Such appraisals shall be completed and submitted to the Secretary for approval within sixty days after the enactment of this Act. In the event the Secretary and Homestake are unable to agree to the appraised value of a certain tract or tracts of land to be included in the exchange within the one hundred and twenty days after the date of enactment of this Act, the appraisals, or appraisal issues in dispute shall be resolved through a process of bargaining or submitted for arbitration according to Section 3 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409, 43 U.S.C. 1716(d)). Appraisals of lands in Colorado identified in section 2(c) of this Act for conveyance to Homestake

shall not reflect any diminution in value attributable to any conversion of existing ski area permits into ski area permits pursuant to the National Forest Ski Area Permit Act of 1986 (Public Law 99-522).

(c) EXCHANGE AGREEMENTS.—The Secretary shall attempt, within 60 days after the completion of appraisals under this section, to enter into an exchange agreement with Homestake to consummate the exchange of the specific tracts of land identified in Section 2 of this Act. Unless otherwise specified in the exchange agreement, the tracts shall be exchanged at the earliest possible date after the exchange agreement is signed. It is the intent of Congress that the exchange be completed no later than two hundred and seventy days after the date of enactment of this Act.

(d) ADDITION TO BLACK HILLS NATIONAL FOREST.—Lands acquired by the United States within or adjacent to the exterior boundaries of the Black Hills National Forest shall be added to and administered as part of the Black Hills National Forest. The Secretary of Agriculture is hereby authorized to modify such boundaries to incorporate such lands upon their acquisition by the United States. Upon their inclusion in the National Forest System such lands shall be managed in accordance with the laws, rules and regulations generally applicable to the National Forest System, unless otherwise specifically provided by this Act.

(e) DEFINITION.—As used in this Act, the term "Homestake" shall mean the Homestake Mining Company of California or its successors or assigns.

SEC. 4. CONVEYANCE TO SUMMIT COUNTY, COLORADO.

(a) IN GENERAL.—Upon payment by Summit County to the Secretary of the sum of $25,000 and execution of an agreement between the County and the United States as specified in paragraph (4), the Secretary of Agriculture shall convey to Summit, Colorado, all right, title and interest of the United States in approximately four hundred and seventy seven acres of land as generally depicted on a map numbered 7 and entitled "Summit County Landfill", dated July 1990. Such conveyance shall be subject to the following conditions:

(1) The lands conveyed shall continue to be used for solid waste disposal, expansion of the Summit County landfill, or other authorized purposes of Summit County government.

(2) In the event Summit County ever sells, exchanges or otherwise disposes of all or a portion of the lands acquired pursuant to this section, all proceeds of such sale, exchange, or disposal shall accrue to the United States, or the Secretary of Agriculture may elect to reacquire, without compensation to Summit County, any or all portions of such lands that have not been used for solid waste disposal, as the Secretary determines appropriate prior to their sale, exchange, or disposal by the County.

(3) The patent issued by the Secretary of the Interior pursuant to this section shall not contain a reverter provision and under no circumstances shall lands used for solid waste disposal be eligible for reversion to the United States by operation of law after the issuance of such patent.

(4) A conveyance pursuant to this section shall be contingent upon the County executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of Agriculture, and that permanently holds the United States harmless for liability and indemnifies the United States against all costs arising from the United States' ownership or any and all activities, operations (including the storing, handling, and dumping of hazardous materials or substances), or other acts conducted by Summit County or its licensees, employees, agents, successors or assigns on the four hundred seventy-seven acres transferred pursuant to this Act, whether such activities, operations, or other acts occurred prior to, on, or after the date of enactment of this Act. Such agreement shall be incorporated in the patent issued by the Secretary of the Interior for the land conveyed.

(b) INCORPORATION OF CONDITIONS.—The Secretary of the Interior shall incorporate the conditions specified in subsection (a) of this section in any patent conveying lands to Summit County pursuant to this section.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4567, the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4567 is a bill sponsored by our Interior Committee colleagues from South Dakota and Colorado, Mr. JOHNSON and Mr. CAMPBELL.

It would provide for an exchange of lands in which the United States would acquire about 12,274 acres of land in South Dakota now owned by the Homestake Mining Co., in exchange for about 868 acres of national forest lands in Summit County, CO. The South Dakota lands would be added to the Black Hills National Forest. The Colorado lands would be sold by Homestake to their current occupants, including ski resorts and the county government, who now use the lands under permits from the Forest Service.

In addition, the bill would provide for conveyance to Summit County, CO, of a tract of about 447 acres that encompasses lands the county now uses for its landfill, under a special-use permit.

Mr. Speaker, the South Dakota lands that would be acquired by the United States include lands in the Spearfish Canyon area as well as the largest single inholding in the Black Hills National Forest. Both are areas the Forest Service prizes highly.

The bill would leave out of the exchange the mineral estate in both the South Dakota and Colorado lands. However, under the bill there would be a prohibition on any mineral exploration or development in the Spearfish Canyon Area in any way that involved surface disturbance. The Spearfish Canyon lands that would be acquired by the United States under the exchange are the most environmentally sensitive lands involved in the exchange, and protection of such lands from adverse effects of mineral development was a primary goal of the Forest Service in its recommendations for improvements in this bill. It is my understanding that the Forest Service's concerns about this have been fully resolved by the terms of the bill now before us.

The bill also includes provisions designed to assure that Homestake would not be able to make windfall profits from resale of some 40 acres now covered by Forest Service cabin permits that would be transferred to the company in the exchange, as well as other provisions intended to protect the public interest.

With regard to the landfill site that could be conveyed to Summit County, under the bill the county would be required both to pay $25,000 to the United States for the 477 acres involved and also to enter into a binding agreement to hold the United States harmless against any costs arising from liability based on use of these lands for landfill purposes. In addition, the county's use of the lands would be restricted. Taken together, I believe that these provisions appropriately protect the United States and the public in connection with the desirable outcome of transferring this landfill site to the ownership of the local government.

In short, Mr. Speaker, I believe that the bill as reported appropriately resolves the various concerns that have been raised about the bill, and will ensure that the exchange will both enhance the resources and values of the Black Hills National Forest and also properly recognize and protect the interests of the public with regard to all the lands involved.

Mr. Speaker, I commend Mr. JOHNSON and Mr. CAMPBELL for their leadership and their hard work in connection with this bill, and I urge its approval by the House.

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

Mr. Speaker, I rise in support of H.R. 4567, which was introduced by the gentleman from South Dakota [Mr. JOHNSON] and my colleague from Colorado [Mr. CAMPBELL]. Both of these gentlemen are also members of the Subcommittee on National Parks and Public Lands.

H.R. 4567 would facilitate an interstate land exchange between Colorado and South Dakota. Under this bill, the Forest Service would acquire about 12,274 acres to be added to the Black Hills National Forest in exchange for about 868 acres of national forest land in Summit County, CO. The Forest Service would also sell about 477 acres to Summit County. This acreage, which includes an existing landfill and proposed expansion area, will continue to be used as a landfill.

This legislation is supported by both major landowners involved—Homestake Mining Co. and the Forest Service. At the subcommittee's hearings on H.R. 4567, the Forest Service outlined several changes that would improve the bill in its opinion. It is my understanding that these changes have been incorporated in the final version of the bill before us today.

Mr. Speaker, I urge my colleagues to support H.R. 4567.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON], a valuable member of our committee and subcommittee.

Mr. JOHNSON of South Dakota. Mr. Speaker, under this exchange, the Forest Service acquires 12,274 acres of the Black Hills of South Dakota in exchange for 868 acres that are no longer suitable for management by the Forest Service near Keystone, CO.

This exchange includes 1,250 acres along almost 20 miles of the beautiful, scenic Spearfish Creek in Spearfish Canyon in the northern Black Hills, as well as over 8,000 acres of prime elk, deer, and wildlife winter range near Piedmont, SD, in the central Black Hills. The Piedmont section also contains significant scenic values, while Spearfish Creek is a blue-ribbon mountain trout stream.

The exchange has wide support, include the Forest Service, local environmental organizations, the mayors of surrounding cities, and local citizens.

It is important to protect these scenic areas and the vital habitat for the future. While the Homestake Mining Co. has done an admiral job of managing the resources over the past 100 years, the Forest Service is in a better position to manage these lands for the public good in perpetuity. Spearfish Canyon in particular is under significant development pressure on both ends of the canyon, and it is imperative that we act now to save this area for future generations.

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The areas to be acquired in the Black Hills are key additions to the National Forest System.

Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. VENTO], chairman of the committee, the gentleman from California [Mr. LAGOMARSINO], the ranking member, as well as Chairman VOLKMER of the Agriculture Committee's Forests Subcommittee for their important help in moving this legislation along, as well as the staff of the Interior and Insular Affairs Committee and the Agriculture Committee for their help.

I want to thank as well the very progressive and enlightened attitude taken by the Homestake Mining Co. in their management of this land over the past 100 years and their willingness to work through some complications to carry this exchange to fruition. It will be of enormous benefit to future generations of South Dakotans and future generations of Americans.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his cooperation and work. He really did a good job working with the various groups involved in this, and I thank also our colleagues on the other committees that had an interest in this matter.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4567. This legislation authorizes and directs an interstate exchange of land between the Homestake Mining Co., of California and the U.S. Department of Agriculture. H.R. 4567 is necessary because existing law does not authorize USDA to carry out exchanges involving lands in more than one State.

What H.R. 4567 does is quite simple.

The bill basically proposes that the Forest Service of the U.S. Department of Agriculture acquire approximately 12,274 acres of scenic land in and adjacent to the Black Hills National Forest in South Dakota that is currently owned by the Homestake Mining Co.

In exchange, the bill proposes that USDA convey to Homestake approximately 868 acres of National Forest land in Summit County, CO, along with approximately 40 acres of cabin sites in South Dakota. The bill also authorizes the Secretary of Agriculture to sell an existing landfill site, also in Summit County, CO, totaling 477 acres to the county government for continued use as a landfill.

Mr. Speaker, acquisition of the Homestake-owned land in South Dakota by the Forest Service will achieve a major land consolidation that will, according to the Forest Service, significantly enhance the management of the Black Hills National Forest and serve the public interest.

The proposed acquisition will include Spearfish Canyon, a well-known scenic and recreational area in the Black Hills which has a significant trout stream. Acquisition of Spearfish Canyon will provide permanent, unrestricted public access to over 20 miles of stream bottom for fishing, hiking, and other recreational uses.

In addition, the exchange will allow the Forest Service to acquire more than 8,000 acres in the so-called Piedmont region, near Rapid City, SD. The Piedmont is a tract of forested lands and canyons containing dramatic cliffs, caves, springs, and other interesting geological features. Because this land has been in private ownership for over a century, the area has been largely undisturbed by humans and is known for its interesting variety of plant species and a microclimate in the canyon bottoms.

Mr. Speaker, the Homestake Mining Co. originally wanted to sell these holdings to the Forest Service at fair market value. However, despite the Forest Service desire to acquire these areas for public use, the constraints of the Federal budget precluded this from happening in the foreseeable future. The logical alternative pursued by the Forest Service and Homestake was the negotiation of this proposed land exchange.

The two parties identified some 868 acres of National Forest land consisting of six parcels of land in Summit County, CO, that was judged suitable for transfer to Homestake. These parcels include lands in and around the Keystone and Copper Mountain ski areas, as well as portions of other Forest Service lands in Summit County. In authorizing this land conveyance to Homestake, the bill expressly and permanently reserves public rights of access for fishing, bicycle paths, and hiking on the Colorado Trail.

As with all exchanges, H.R. 4567 mandates that the lands exchanged be of equal dollar value as determined by standard appraisal practices.

Although the Committee on Agriculture would have preferred the acquisition of Homestake's entire estate—surface and minerals—in South Dakota, mineral rights will not be acquired. This concession will permanently protect the area's outstanding scenic and riparian values while allowing Homestake to engage in underground mining if minerals are ever discovered.

The bill also provides a sense of Congress statement that the exchange be completed within 270 days of enactment of H.R. 4567 and seeks to facilitate this process by expediting the appraisal process and the execution of a final exchange agreement.

I would like to thank the sponsors of this bill, Representatives TIM JOHNSON of South Dakota and BEN NIGHTHORSE CAMPBELL of Colorado, both of whom serve on the Committee on Agriculture, for their leadership in developing and moving this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4567.

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

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4567, 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.

VANCOUVER NATIONAL HISTORICAL RESERVE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5144) to establish the Vancouver National Historical Reserve in the

State of Washington, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5144

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

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites which chronicle important steps in the settlement and development of the Northwest, including—

(A) Fort Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military installation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical assets are owned and managed by several governmental entities, including the National Park Service, city of Vancouver, and United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

(5) failure to coordinate the planning and management within the Area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the Area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following 5 members:

(1) The Director of the National Park Service, or his designee.

(2) One individual appointed by the Secretary of the Interior from recommendations submitted by the Mayor of Vancouver to represent the city of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary of the Interior from recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary of the Interior to represent the general public.

Members shall be appointed within 60 days after the date of enactment of this Act.

(c) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary.

(f) QUORUM.—Three members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary any Federal agency may provide to the Commission on a reimbursable basis information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) TERMINATION OF COMMISSION.—The Commission shall terminate upon submission of the study report as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) REPORT.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the Area;

(ii) specific preservation and interpretation goals; and

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the Area, compatible with other historic and cultural resources of the Area, including Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the Area; and

(B) future operation of the airport undertaking such mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) DEVELOPMENT OF STUDY.—

(1) In undertaking the study under section 2(a), the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In undertaking the study under section 2(a), the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In undertaking the study under section 2(a), the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) TRANSMITTAL OF STUDY REPORT.—Not later than 18 months after the date of enactment of this Act, the Commission shall submit the report required under subsection (a) to the Secretary of the Interior and the Secretary of the Army. The Secretary of the Interior shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 30 days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) NOTIFICATION OF SECRETARY OF THE INTERIOR.—The Secretary of Defense shall notify the Secretary of the Interior upon any determination by the Secretary of Defense that any real property located at Vancouver Barracks is excess property of the Department of Defense.

(b) REVIEW OF PROPERTY BY SECRETARY OF THE INTERIOR.—Not later than 90 days after receiving notification from the Secretary of Defense under subsection (a), the Secretary of the Interior shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary of the Interior or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of a report to the Congress regarding that property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Area shall—

(1) consult with the Secretary and the Commission with repect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Area" means the area which incorporates those resources listed in section (1);

(2) the term "Commission" means the Vancouver Historical Study Commission established by section 2; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

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

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5144, the bill presently under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 5144 was introduced by our colleague, Representative JOLENE UNSOELD. The bill, as reported from the Committee on Interior and Insular Affairs, provides for the establishment of a Vancouver Historical Study Commission to review certain historical and cultural resources located in the city of Vancouver, WA.

Because of Vancouver's location along the Columbia River, the area was important in the early exploration, settlement, and commerce of the Pacific Northwest. A significant aspect of that early history is represented at the existing Fort Vancouver National Historic Site which interprets the early trading period of the region. Several varied sites of historical interest adjoin the fort, including an airpark and a U.S. Army post that has been in continuous operation since 1849.

H.R. 5144 as introduced would have provided for establishment of a Vancouver national historical reserve. The committee held a hearing on this proposal and reviewed matters relating to the significance and integrity of the area, as well as the opportunities for joint or cooperative management of the resources found there. While we gained from the hearing a better understanding and appreciation of the historic and cultural resources of the Vancouver area, there remain questions as to the feasibility and suitability of the management and interpretive concepts proposed by H.R. 5144. Because of these questions the bill has been rewritten as a study to provide an inventory and assessment of the various resources proposed to be included in the reserve, as well as potential management strategies for the area. This study process will be facilitated by a five-member study commission made up of Federal, State, and local representatives who will prepare a study report within 18 months of the date of enactment. Significant attention in the committee hearing was focused on the present and future operation of Pearson Airpark. As part of this study the question of the airpark's operation will be reviewed to see what opportunities are available that would be compatible with the mission of the Fort Vancouver National Historic Site and the other resource values of the area. Finally, the substitute sets up a review process in the event that U.S. Army lands in the area are declared excess at some future date. This will permit an assessment of these land's resource values and their possible administration, without irreversible decisions being made in the meantime.

Mr. Speaker, the sponsor of H.R. 5144, Representative UNSOELD, has made a good case as to the interesting and varied nature of some of the resources located in her district. There is a good amount of local and State interest in this matter that I believe can be put to good use here. The study authorized by this legislation will provide us with a more complete assessment of these resources and their related management, so that we may have information on which to make some judgments on the feasibility and suitability of an additional designation for the area. I support H.R. 5144, as amended and recommend its adoption by the House.

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

Mr. Speaker, I rise in support of H.R. 5144, a bill to direct the preparation of a study of alternatives for coordinated management and preservation of resources in the vicinity of Fort Vancouver National Historical Site. The bill before us represents a significant revision of the introduced bill, which was opposed by the administration.

While the existing master plan for the park already calls for cooperation with other governmental agencies, it is clear that this bill would take that cooperation a step further. Conversion of the original, instant designation bill to a study bill as proposed is appropriate. As testified to by the administration, information on the historical significance and management feasibility for this proposed site is lacking.

Establishment of a new unit of the national park service is a significant action. It is an action which means essentially a permanent obligation on behalf of the Federal Government. Therefore, we must be certain that such designations are preceded by thorough management and cost analyses. Too often this committee takes action on such designation without adequate information.

The study directed under this bill should help to provide for improved governmental operations and coordination, regardless of whether the National Park Service area is expanded, and therefore it is a sound approach.

I urge my colleagues to join me in supporting this measure.

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

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD], the sponsor of this measure.

Mrs. UNSOELD. Mr. Speaker, my thanks to Chairman VENTO and his staff for helping us perfect this bill. It is much better than it was when we first introduced it. My thanks to my colleagues.

Mr. Speaker, much of the Vancouver, WA, I knew as a child is gone—old downtown, the shipyards, my high school. But today, we have a chance to help save some of the most historically significant sites in the Northwest.

This legislation, H.R. 5144, will begin a process to establish a Federal-State-local partnership to protect and coordinate the management of these sites by creating a commission to inventory the area and come back to Congress with legislative recommendations for a Vancouver national historical reserve.

Vancouver, which is located just across the Columbia River from Portland, OR, was at the center of the settlement and development of the Northwest during the nineteenth and twentieth centuries. In one 300-acre reserve, five historic gems chronicle the sweep of Northwest history since Lewis and Clark explored the area between 1805 and 1806.

Native Americans built a rich culture and trading center along the banks of the Columbia River; early English and American settlements and military forces were headquartered in Vancouver; and the area is home to Pearson Airpark, arguably the oldest continuously operating airport in the country. Each of these chapters in the colorful history of the Northwest—and many more—are represented in Vancouver's historic area.

Fortunately, the area, which is part of the original 640-acre military reserve established in 1849, is still public ownership. Unfortunately, there is little formal coordination among the public owners of the area. If we do not act in a timely fashion, important pieces of the remaining historic area will be lost forever.

Five principal sites make up the historic area:

Fort Vancouver. The regional headquarters for the Hudson's Bay Co. and the center of British-American competition in the Northwest. Fort Vancouver is a national historic site owned

and managed by the National Park Service.

Vancouver Barracks. Originally established to counter British influence, the barracks have been continuously operated by the U.S. Army since the 1840's but may soon be declared excess.

Officers Row. Recently acquired and restored by the city, the 21 elegant houses on the row were part of the barracks and for over 100 years housed some of our Nation's greatest military leaders.

Pearson Airpark. Managed by the city and partially owned by the Park Service, Pearson is one of the oldest operating airports in the country. It was an early Army airfield and the site of several aviation firsts, including the landing of Valeri Chkalov, the "Soviet Lindberg," after his 1937 transpolar flight. Pearson is the site of a popular new aviation museum.

Columbia River Waterfront. The site of early Indian activity, landings by explorers and settlers, and shipbuilding, the Columbia waterfront provides unique opportunities for public access to the river as well as natural and historic interpretation. The area is owned by the Park Service and managed by the city.

Each of the sites has either been placed on the National Register of Historic Places, has been determined to be eligible, is in the process of being nominated, or is a documented archaeological site.

To preserve, restore, and coordinate the management of the historic area, we need a partnership among the public owners. We also need to keep the area in public ownership for the public benefit. A Federal-State-local partnership can help protect and enhance nationally significant historic and natural resources without the need for large Federal expenditures.

The first step in the process is to establish a commission to inventory the historic and natural assets in the area, develop mechanisms for coordinated management and planning, and make legislative recommendations to Congress. This legislation would call for the appointment of a five-member Vancouver Historical Study Commission with representatives from the National Park Service, the city of Vancouver, the U.S. Army, the Washington State Office of Historic Preservation, and the general public.

Although the original version of H.R. 5144 would have immediately established a Vancouver national historical reserve and given a coordinating commission authority to develop a cooperative management plan, this bill would require that the commission report its recommendations to Congress for final action. I believe this change is helpful. Within 18 months of enactment, Congress will receive the commission's recommendations and make important decisions relating to the designation.

Among the more important issues to be addressed by the commission will be the fate of historic Pearson Airpark. The commission is required by the legislation to make a recommendation concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the area, compatible with other historic and cultural resources. Furthermore, the bill calls for an assessment of mitigation measures that could minimize the impact of the continued operation of the airport on other resources.

It should be pointed out that the increasingly popular aviation museum, the historic airfield itself, and the open space afforded by the portion of the airfield now owned by the city of Vancouver could be lost to industrial or commercial development if the field is closed when the current use agreement expires in 2002. A fairly valued mitigation plan—including the relocation of hangars, restoration of the original wooden hangars, landscape screening, limitations on the type and number of aircraft at the field, and support for the aviation museum—could provide near- and long-term benefits for the entire historic area.

Mr. Speaker, this legislation makes possible the first step toward a public partnership that will preserve, in one location and with minimal expenditure of scarce Federal funds, several layers of the Northwest's most important history. The bill has broad bipartisan support and was cosponsored by every member of the Washington and Oregon congressional delegations. I urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I rise in favor of this bill. I think that a study is very well warranted.

The gentlewoman from Washington is correct, there are some great nuggets of potential historical sites here that should be coordinated and run as a unit by the National Park Service. One area that I am very concerned with is the continuation of Pearson Airpark, which is one of the oldest if not the oldest operating airport in the entire country. As we know, aviation only started in the early part of this century, but we have here in fact a strip that has been in existence for most of that period of time. We also have, as an interesting part of it, the officers' row which has been restored and the historic site which the National Park Service has now with the Fort Vancouver national historic site. The difficulty we have for Vancouver is that it is a restoration, not the original, but it is located on the same location. I think it is important that we show the historic aviation activity here.

So this study is very important in trying to resolve what we could do with these five sites in tying them together.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of H.R. 5144. As you know, Mr. Speaker, this legislation, introduced by my colleague from Washington, would authorize a study to take an inventory of the historical, cultural, and recreational resources within the Vancouver historical area in Vancouver, WA. Also, this study must also issue recommendations concerning the continued operation of Pearson Airpark which is part of the historical area. My experience in aviation sparked my interest in this bill. Pearson Airpark is one of the oldest operating airports in this country and this airpark continues to be used today. With Pearson, we have a unique chance to preserve history that has been made and as it continues to be made. I understand there have been some reservations expressed about the preservation of Pearson, among them being noise generated at the airpark. I am confident this study commission will look at every possible alternative to ensure we can preserve the living history of Pearson Airpark without creating disruption in the lives of local residents. I support the enactment of H.R. 5144 and urge my colleagues to do the same.

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

Mr. VENTO. 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 Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5144, 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 provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.".

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. VENTO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 390]

Ackerman	Ballenger	Berman
Anderson	Barnard	Bevill
Annunzio	Bartlett	Bilbray
Anthony	Barton	Bilirakis
Applegate	Bateman	Bliley
Armey	Bates	Boehlert
Atkins	Bennett	Boggs
AuCoin	Bentley	Bonior
Baker	Bereuter	Borski

Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Frenzel
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Purselll
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

□ 1658

The SPEAKER. On this rollcall, 377 Members have recorded their presence by electronic device, a quorum. Under the rule, further proceedings under the call were dispensed with.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *September 26, 1990.*

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the unofficial results received from the Honorable Benjamin J. Cayetano, Lieutenant Governor, State of Hawaii, certifying that, according to the unofficial returns of the Special Election held on September 22, 1990, the Honorable PATSY T. MINK was elected to the Office of Representative in Congress, from the Second Congressional District, State of Hawaii.

With great respect, I am

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

OFFICE OF THE
LIEUTENANT GOVERNOR,
STATE CAPITOL,
Honolulu, HI, September 24, 1990.

Mr. DONNALD K. ANDERSON,
Clerk, U.S. of Representatives, Office of the Clerk, H105, The Capitol, Washington, DC.

DEAR MR. ANDERSON: This is to certify that on September 22, 1990 a Special Election was held in the State of Hawaii for the Second Congressional District of the U.S. House of Representatives. The unofficial results of the Special Election Election are as follows:

Mink, Patsy Takemoto (D)	51,841
Hanneman, Mufi Francis (D)	50,164
Menor, Ron (D)	23,629
Poepoe, Andy (R)	8,872
Monsef, Stanley (R)	2,264
Black, A. Duane (D)	1,242
Mallan, Lloyd Jeffrey (L)	791
Blank votes	9,928
Over votes	1,195

The contest period for a special election in the State of Hawaii is 20 days. A certificate of election will be issued to Patsy Takemoto Mink after the contest period expires on October 12, 1990.

Aloha,

BENJAMIN J. CAYETANO,
Lieutenant Governor.

□ 1700

SWEARING IN OF HON. PATSY T. MINK AS A MEMBER OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the gentlewoman from Hawaii, Mrs. PATSY T. MINK, be permitted to take the oath of office today. Her certificate of election has not arrived, but there is no contest, and no question has been raised with regard to her election.

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

There was no objection.

The SPEAKER. Will the gentlewoman from Hawaii [Mrs. MINK] the Member-elect, come forward.

Mrs. MINK appeared at the bar of the House and took the oath of office.

The SPEAKER. Congratulations. You are again a Member of the House of Representatives.

HON. PATSY T. MINK

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

Mrs. MINK. Mr. Speaker, I cannot begin to tell you how thrilled and honored I am today to take the oath of office once again and to be able to join this very distinguished body as it meets the numerous problems that confront our Nation and the world.

It is almost an unbelievable experience today that my constituents made it possible for me to return. I have had a wonderful few minutes here greeting Members that I knew when I served here for six terms previously and I look forward to some very interesting last few days of this session.

Some people have been saying I should have postponed this ceremony until at least Monday, but I could not resist the temptation to come back here and engage you all in what is perhaps the most historic debate that is to ensue in the next few days. I am truly honored to be back here amongst you and to be able to call you all my colleagues once again.

Thank you very, very much for this honor.

FEDERAL JUDGESHIP ACT OF 1990

The SPEAKER. The pending business is the question of suspending the rules and passing the bill, H.R. 5316, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5316, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 387, nays 18, answered "present" 1, not voting 27, as follows:

[Roll No. 391]

YEAS—387

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan (CA)
Douglas
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—18

Armey
Ballenger
Coble
Dorgan (ND)
Duncan
Gekas
Glickman
Hancock
Jacobs
Jontz
Livingston
Murphy
Obey
Penny
Petri
Sensenbrenner
Sundquist
Visclosky

ANSWERED "PRESENT"—1

Udall

NOT VOTING—27

Alexander
Beilenson
Clay
Conyers
Crockett
Ford (TN)
Gingrich
Hall (OH)
Hammerschmidt
Hochbrueckner
Lewis (CA)
Luken, Thomas
Machtley
Martinez
McCandless
McCrery
McGrath
Morrison (CT)
Nelson
Parker
Robinson
Rostenkowski
Rowland (CT)
Schaefer
Schuette
Smith (FL)
Towns

□ 1722

Mr. JONTZ changed his vote from "yea" to "nay".

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 391.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1430) to enhance national and community service, and for other purposes, with House amendments thereto, insist on the House amendments and request a conference with the Senate thereon.

The Clerk read the title of the bill.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, on our side we do not know anything about this bill coming up. We do not have any clearance from our people on the Committee on Education and Labor. We do not have any Committee on Education and Labor people from the leadership here on the floor. We are a little confused about what we are doing and would appreciate an explanation.

The SPEAKER. It is for the purpose of going to conference.

Mr. WALKER. It is a motion to go to conference?

The SPEAKER. Yes.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, may I ask the gentleman from California [Mr. HAWKINS] whether or not this has been cleared by the minority?

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

Mr. WALKER. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, the bill under consideration is the National and Community Service Act of 1990. I have discussed it with the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], who agrees with going to conference.

Mr. WALKER. Mr. Speaker, until we have a chance to consult with the ranking member on our side, we would appreciate the gentleman from California [Mr. HAWKINS] withdrawing the motion at the moment so we do not have to object.

Mr. HAWKINS. Mr. Speaker, the gentleman desires to leave. I have an urgent appointment. I have cleared it with everyone. Nobody has objected.

The SPEAKER. The Chair would suggest that the gentleman from California [Mr. HAWKINS] proceed with the matter of the conferees on H.R. 4653. The Chair hopes that the minority would be able to clear the consideration of the request of the gentleman from California in a few minutes, if that is possible. The Chair has received recommendations from the minority on the appointment of conferees.

Is there objection?

Mr. PORTER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXPORT FACILITATION ACT OF 1990

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees and without objection reserves the right to appoint additional conferees:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, LEVINE, FEIGHAN, JOHNSTON of Florida, ENGEL, BERMAN, BROOMFIELD, GILMAN, ROTH, and BEREUTER.

From the Committee on Ways and Means, for consideration of section 120 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, DOWNEY, PEASE, RUSSO, GUARINI, ARCHER, VANDER JAGT, CRANE, and FRENZEL.

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 205 through 209 and 302 of the Senate amendment, and modifications committed to conference: Messrs. FAUNTROY, NEAL of North Carolina, LAFALCE, and KLECZKA, Ms. PELOSI, and Messrs. FLAKE, MCDERMOTT, LEACH, BEREUTER, SHUMWAY and MCCANDLESS.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5649, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-765) on the resolution (H. Res. 480) providing for the consideration of the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 3045, COPYRIGHT REMEDY CLARIFICATION ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I would simply ask the gentleman from Texas if this has been cleared by the minority.

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

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, it is my understanding that the chief counsel for the Republican Party on the Committee on the Judiciary and the minority staff have said that it was.

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

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. KASTENMEIER, CROCKETT, BERMAN, MOORHEAD, and COBLE.

□ 1730

LEGISLATIVE PROGRAM

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

Mr. MICHEL. Mr. Speaker, I asked for this time for the purpose of inquiring of the distinguished majority leader the program for the balance of this day and the weekend.

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

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. The schedule is that at the end of today, we will meet again tomorrow at 10 a.m. We will be taking up the NASA authorization bill, the rule, and general debate. We are still trying to determine if there is the intent to try to finish the bill. I doubt that we will, because we have some suspensions that we would like to finish tomorrow, and they will come after the NASA authorization. We will rise by 1 p.m., no later than 2 p.m.

On Sunday, we will return. There will be no votes before 2 p.m. on Sunday. We will have under consideration Sunday the continuing resolution.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I had a number of Members come up to me today because of the colloquy earlier in the week regarding Sunday. They asked, because of their religious services on Sunday, if it might be possible to delay this until 3 or 3:30 p.m., because some of their services are in areas of close proximity to here, and they want to get back. I do not know if it is possible, but I thought I would at least raise the subject.

Mr. GEPHARDT. If the gentleman will yield further, it is likely that there will not be a vote on the continuing resolution until 3 or 3:30 p.m. The reason we want to come in in the afternoon to get started on the continuing resolution is that we need to get it over to the Senate by 4 or 5 o'clock so they can consider it and act on it.

Mr. BURTON of Indiana. If the gentleman will continue to yield, Members could have some confidence that we will not have a vote until after about 3:30?

Mr. GEPHARDT. If the gentleman would yield, the House will go in at 2 p.m. on Sunday. There will be some time at the start of the proceeding. We then have to debate the continuing resolution. So I would not think there could be a vote on it until 3:30 p.m., or even later.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

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

Mr. MICHEL. I yield to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman for yielding. Having changed my schedule for tomorrow twice today with the understanding we would not be here with votes, it is possible that we might defer any votes that are called for tomorrow until after the vote on the continuing resolution on Sunday? Then we would know what our schedule could be.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I apologize to Members for the inconvenience of not knowing when the schedule was changed. It is because of the difficulty of the lateness of the session. We cannot roll votes until Sunday. We need to take action here tomorrow, so there will be a few votes tomorrow.

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

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

Mr. SOLOMON. Mr. Speaker, I would just say to the Members, the rule that will be taken up at 10 o'clock

tomorrow morning on NASA is an open rule. As far as I know, there will be no requests on this side of the aisle to ask for a vote, if that is the only vote there is going to be.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Speaker, some Members who live on the west coast and want to get back by sundown for Yom Kippur tomorrow evening are going to have to leave here by noon tomorrow. Is there any chance that the votes that the distinguished majority leader is talking about tomorrow could be held before noon?

Mr. GEPHARDT. I would say to the gentleman from Washington [Mr. MILLER] that there is, I think, a better than even chance that we can avoid votes on suspensions, but I cannot guarantee that. I think by 1 o'clock you will be clear and safe, that there would be no more votes.

Mr. MICHEL. If I might inquire of the distinguished majority leader the program for the balance of tonight, if any?

Mr. GEPHARDT. If the gentleman will yield, it is my understanding that we have two merchant marine bills that have been cleared with the minority, and there could be one or two other public works bills that have been cleared. There may or may not be votes on them. I cannot estimate right now how long it will take, but I think that would complete the program for the day. Relatively soon I think we should be finished.

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

Mr. MICHEL. I yield to the gentleman from Virginia.

Mr. BATEMAN. If I might renew my inquiry about rolling votes over until a time on Sunday, could that be done by unanimous consent? If it could be, I would be glad to ask for unanimous consent.

Mr. GEPHARDT. If the gentleman would yield, one of the reasons we feel it is necessary to have a schedule tomorrow and ask Members to be here is that we are still working in this summit trying to produce an agreement. If that happens, and I do not know whether it will or not, but if it does, we want to be in a position to be able to explain to the Members in a caucus on our side, and I am sure you would want to do the same on the other side, what the result of that agreement is. If there is not an agreement, we would like Members to know where we are and what is happening.

I would not prefer to have Members reading about what is happening in the summit in the newspaper when you are at home.

In addition, there may be the need to be in the Committee on Rules with matters, and we need to have the Committee on Rules present. It is for those reasons. We certainly do not schedule votes to inconvenience Members and change the schedule incessantly. I apologize for any inconvenience the Members may have.

Mr. Speaker, I would like to inform Members that the decision has been made, because there is the possibility that votes would be called tonight on suspensions, that we will not bring up any more suspensions tonight. So the business of the day will be finished. We will take those up tomorrow.

Mr. MICHEL. Mr. Speaker, that concludes the questions we have on our side, and I yield back the balance of my time.

PERMISSION FOR THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON FRIDAY, SEPTEMBER 28, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to recognize Members for motions to suspend the rules on Friday, September 28, 1990.

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

There was no objection.

ADJOURNMENT FROM FRIDAY SEPTEMBER 28, 1990, TO SUNDAY, SEPTEMBER 30, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, September 28, 1990, it adjourn to meet at 2 p.m. on Sunday, September 30, 1990.

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

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SWIFT (at his own request) on account of illness in the family.

Mr. PARKER (at the request of Mr. GEPHARDT) for today after 4:30 p.m. on account of illness in family.

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 Member (at the request of Mr. SUNDQUIST) to revise and extend his remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes, on October 4.

(The following Members (at the request of Mr. DARDEN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes each day, on October 1, 2, and 3.

Mr. MAZZOLI, for 60 minutes, on October 9.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, on September 30.

EXTENSION OF REMARKS

By unanimous consent, leave of absence was granted to:

(The following Members (at the request of Mr. SUNDQUIST) and to include extraneous matter:)

Mr. CONTE in two instances.
Mr. COUGHLIN.
Mr. PURSELL.
Mr. GREEN of New York.
Mr. MCDADE.
Mr. ARCHER.
Mr. BALLENGER.
Mr. WALSH.
Mr. MACHTLEY in 14 instances.
Mr. DOUGLAS.
Mr. MICHEL.
Mr. LIGHTFOOT.
Mrs. JOHNSON of Connecticut.
Mr. MOORHEAD.
Mr. MORRISON of Washington.

(The following Members (at the request of Mr. DARDEN) and to include extraneous matter:)

Mr. JOHNSON of South Dakota.
Mr. HOCHBRUECKNER.
Mr. RANGEL.
Mr. BONIOR.
Mrs. KENNELLY.
Mr. MRAZEK.
Mr. MONTGOMERY.
Mr. DINGELL.
Mr. SKELTON.
Mr. MCNULTY.
Mr. VENTO.
Mr. DELUGO.
Mr. MAZZOLI.
Mr. PELOSI.
Mr. ROE.
Mr. RICHARDSON.
Mr. MILLER of California in two instances.
Mr. THOMAS of Georgia.
Mr. LLOYD.
Mr. MAVROULES.

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. 677. An act to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions; to the Committee on Science and Technology.

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize

physicians comparability allowances; to the Committee on Post Office and Civil Service.

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on this day present to the President, for his approval a bill of the House of the following title:

On September 26, 1990:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, September 28, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3948. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-74), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3949. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-93), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3950. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-78), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3951. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-82), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3952. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-80), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3953. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-92), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3954. A letter from the Secretary of Education, transmitting a letter expressing the Department's views on H.R. 5040, a bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; to the Committee on Education and Labor.

3955. A letter from the Department of Energy transmitting notification of a meeting of the Industry Advisory Board [IAB] to the International Energy Agency [IEA] will be held on Tuesday, September 24, 1990, at the offices of the Organization for Economic Cooperation and Development [OECD], Paris, France, pursuant to 42 U.S.C. 6272(c)(1)(A)(i); to the Committee on Energy and Commerce.

3956. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-82), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3957. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-77), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3958. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-74), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3959. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-71), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3960. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Bahrain for defense articles and services (Transmittal No. 90-72), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3961. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-92), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3962. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-78), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3963. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-93), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3964. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-80), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

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. UDALL: Committee on Interior and Insular Affairs. H.R. 3960. A bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes; with an amendment (Rep. 101-764, Pt. 1). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 480. Resolution providing for the consideration of H.R. 5649, a bill entitled "National Aeronautics and Space Administration Multiyear Authorization Act of 1990" (Rep. 101-765). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 3139. A bill to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes; with an amendment (Rep. 101-766). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4267. A bill to require new televisions to have built-in decoder circuitry; with an amendment (Rep. 161-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 5450. A bill to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits; with an amendment (Rep. 101-768). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYLIE:

H.R. 5730. A bill to award a congressional gold medal in recognition of Edward Vernon ("Eddie") Rickenbacker in the centenary

year of his birth; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHARP (for himself, Mr. DINGELL, Mr. LENT, Mr. MOORHEAD, Mr. MARKEY, Mr. TAUZIN, Mr. FIELDS, Mr. DANNEMEYER, Mr. ROWLAND of Georgia, Mr. BRUCE, and Mr. SYNAR):

H.R. 5731. A bill to increase the amount of petroleum products that may be withdrawn from the strategic petroleum reserve under a certain provision of the Energy Policy and Conservation Act; to the Committee on Energy and Commerce.

By Mr. OBERSTAR (for himself, Mr. HAMMERSCHMIDT, Mr. FASCELL, Mr. BROOMFIELD, Mr. ANDERSON, Mr. CLINGER, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. FEIGHAN, Mr. WEISS, Mr. CLARKE, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, Mr. HUGHES, Mr. FAUNTROY, Mr. GUARINI, Mr. BEVILL, Mr. MCNULTY, Mr. SCHUETTE, Mr. GALLO, Mr. SAXTON, and Mrs. ROUKEMA):

H.R. 5732. A bill to promote and strengthen aviation security, and for other purposes; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

By Mr. ARCHER:

H.R. 5733. A bill to amend the Internal Revenue Code of 1986 to clarify the Internal Revenue Service's obligation to notify a person before proceeding to levy on such person's salary, etc.; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 5734. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on windfall profits derived from crude oil, and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. LENT (for himself, Mr. MOORHEAD, Mr. MADIGAN, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. RITTER, Mr. BLILEY, Mr. FIELDS, Mr. OXLEY, Mr. NIELSON of Utah, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. CALLAHAN, Mr. MCMILLAN of North Carolina, Mr. YOUNG of Alaska, and Mr. HANSEN):

H.R. 5735. A bill to encourage cost-effective energy conservation and energy efficiency, and to permit the exploration, development, production, purchase, and sale of domestic energy resources to the maximum extent practicable and in a manner consistent with, and in furtherance of, environmental values, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Interior and Insular Affairs, Merchant Marine and Fisheries, Science, Space, and Technology, Public Works and Transportation, and Rules.

By Mrs. LLOYD (for herself, Mr. RICHARDSON, Ms. OAKAR, Mr. ROYBAL, Mr. TOWNS, Mr. SYNAR, Mr. MCDERMOTT, Mr. SMITH of New Jersey, Mr. COOPER, Mr. HERTEL, Mr. HUGHES, Mr. PALLONE, Mr. MANTON, and Mr. WHITTAKER):

H.R. 5736. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraoccular lenses following cataract surgery; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LOWEY of New York:

H.R. 5737. A bill to authorize the construction of a monument in the District of Columbia to honor Thomas Paine, and for other purposes; to the Committee on House Administration.

By Mr. MCGRATH:

H.R. 5738. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of linear alkybenzene sulfonic acid; to the Committee on Ways and Means.

By Mr. MCNULTY:

H.R. 5739. A bill to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself and Mr. HAMMERSCHMIDT):

H.R. 5740. A bill to amend title 38, United States Code, to make improvements in veterans' health-care programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SAWYER (for himself, Mr. HOYER, Mr. FAZIO, Mr. FORD of Michigan, Mr. DINGELL, Mr. BROOMFIELD, Mr. DYMALLY, Ms. SLAUGHTER of New York, Mr. FROST, Mr. PAYNE of Virginia, Mr. SMITH of Florida, Mr. ESPY, Mr. TOWNS, Mr. RICHARDSON, Mr. OWENS of New York, Mr. ACKERMAN, Mr. WASHINGTON, Mr. MANTON, Mr. SCHEUER, Ms. MOLINARI, Ms. OAKAR, Mr. SERRANO, Mr. LAFALCE, Mr. HAYES of New York, Mr. ROYBAL, Mr. WEISS, Mr. MINETA, Mr. COLEMAN of Texas, Mr. RANGEL, Mr. MATSUI, Mr. STOKES, Mr. GUARINI, and Mr. TORRES):

H.R. 5741. A bill to amend title 13, United States Code, to ensure that the population counts derived from the decennial census are as accurate as possible before they are transmitted to the States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. VENTO (for himself, Mr. LEHMAN of California, Mr. ANNUNZIO, Ms. OAKAR, Mr. KANJORSKI, Mr. KLECZKA, and Ms. PELOSI):

H.R. 5742. A bill to amend the Electronic Fund Transfer Act to provide that the endorsement, deposit, transfer, or other form of negotiation of a check by any consumer may not constitute the authorization of the consumer to make any preauthorized electronic fund transfer from the consumer's account, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WISE (for himself and Mr. ACKERMAN):

H.R. 5743. A bill to require that the U.S. Postal Service rescind changes recently implemented relating to standards for the delivery of mail; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.R. 5744. A bill to authorize modifications of the boundaries of the Alaska Maritime National Wildlife Refuge; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. GEPHARDT, Mr. MICHEL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. DYMALLY, Mr. SMITH of Florida, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. ACKERMAN, Mr. CLARKE, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, Mr. UDALL, Mrs. MEYERS of Kansas, Mr. FUSTER, and Mr. BURTON of Indiana):

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve; to the Committee on Foreign Affairs.

By Mr. MARLENEE:

H. Res. 481. Resolution to provide that, if sequestration occurs under the Balanced Budget and Emergency Deficit Control Act of 1985, the Speaker of the House of Representatives shall devise a plan under which Members would be affected in a manner similar to Federal employees; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. SMITH of Nebraska introduced a bill (H.R. 5745) for the relief of Nebraska Aluminum Castings, Inc., which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. GUARINI.

H.R. 720: Mr. DELLUMS.

H.R. 937: Ms. ROS-LEHTINEN, Mr. BUECHNER, Mr. LANCASTER, Mr. LEVINE of California, Mr. MCNULTY, Ms. KAPTUR, Mr. WALGREN, Mrs. SCHROEDER, Mr. GILMAN, Mr. DYSON, and Mr. FRANK.

H.R. 2395: Mr. MACHTLEY.

H.R. 2578: Mrs. UNSOELD.

H.R. 2589: Mr. BROWN of Colorado.

H.R. 3256: Mr. FISH and Mr. JOHNSTON of Florida.

H.R. 3355: Mr. HERTEL.

H.R. 3751: Mr. JONTZ, Mr. VALENTINE, Mr. SCHUMER, Mr. YATES, and Mr. MOODY.

H.R. 3776: Mr. BATES.

H.R. 3923: Mr. SUNDQUIST.

H.R. 3936: Mr. BRENNAN.

H.R. 3970: Mr. WOLPE.

H.R. 4040: Mr. SIKORSKI.

H.R. 4224: Mrs. BOXER, Mr. BERMAN, Mr. DICKINSON, Mrs. LOWEY of New York, Mr. RANGEL, and Mr. RINALDO.

H.R. 4268: Mr. ROE, Mr. SIKORSKI, and Mr. ATKINS.

H.R. 4408: Mr. MCMILLAN of North Carolina, Mr. ALEXANDER, Mr. TANNER, Ms. ROS-LEHTINEN, Mr. ENGLISH, Mr. ERDREICH, Mr. BROWDER, Mr. OWENS of New York, Mr. BARNARD, Mr. MCHUGH, Mr. TRAFICANT, Mr. INHOFE, Mr. HOLLOWAY, Mr. CALLAHAN, Mr. BAKER, Mr. TAUZIN, Mr. DICKS, Mr. HUCKABY, Mr. GILMAN, Mr. STAGGERS, Mr. NEAL of Massachusetts, Mr. WOLPE, Mr. AUCOIN, Mr. GOODLING, Mr. DARDEN, Mr. JOHNSON of South Dakota, Mr. ROWLAND of Georgia, Mrs. BYRON, Mr. STALLINGS, Mrs. LOWEY of New York, Mr. KILDEE, Mr. GRANDY, Mr.

FASCELL, Mr. WHITTEN, Mr. SMITH of New Hampshire, Mr. MCCURDY, Mr. SPRATT, Mr. LIVINGSTON, Mr. MRAZEK, Mr. GOSS, Mr. WELDON, Mr. COURTER, Mr. DERRICK, Ms. KAPTUR, Mr. YATRON, Mr. MARKEY, Mr. UDALL, Ms. SNOWE, Mr. STEARNS, Mr. EDWARDS of Oklahoma, Mr. LEWIS of Georgia, and Mr. SYNAR.

H.R. 4431: Mr. GUARINI.

H.R. 4483: Mr. MCNULTY, Mr. GUNDERSON, Mr. MCHUGH, Mr. KOLTER, Mr. LEWIS of Georgia, Mr. BARNARD, Mr. ROTH, Mr. CARPER, Mr. SHUMWAY, and Mr. WEISS.

H.R. 4485: Mr. FISH and Mr. PURSELL.

H.R. 4499: Mr. MCCANDLESS.

H.R. 4548: Mr. WAXMAN.

H.R. 4675: Mr. HUBBARD and Mr. FISH.

H.R. 4700: Mr. FOGLIETTA.

H.R. 4741: Mr. BURTON of Indiana, Mr. HAYES of Louisiana, Mr. HOCHBRUECKNER, Mr. SIKORSKI, and Mr. FAZIO.

H.R. 4753: Mr. JACOBS.

H.R. 4840: Mr. CONYERS and Mr. DYSON.

H.R. 4942: Mr. JONTZ.

H.R. 4997: Mr. COMBEST.

H.R. 5200: Mr. HUGHES, Mr. FAUNTROY, Mr. SCHUETTE, Mr. GALLO, and Mr. GUARINI.

H.R. 5235: Mr. JENKINS, Mr. EVANS, Mr. FORD of Tennessee, Mr. DIXON, Mr. GILLMOR, Mr. BLILEY, and Mr. ECKART.

H.R. 5237: Mr. SCHEUER.

H.R. 5246: Mr. FISH.

H.R. 5326: Mr. BROWN of California.

H.R. 5359: Mrs. COLLINS and Mr. MACHTLEY.

H.R. 5373: Mr. ROTH, Mr. WOLF, and Mr. DORGAN of North Dakota.

H.R. 5416: Mr. WALGREN and Mr. SMITH of Vermont.

H.R. 5458: Mr. MCGRATH.

H.R. 5484: Mr. LENT, Mr. DYSON, Mr. MONTGOMERY, Mr. SUNDQUIST, Mr. COBLE, Mr. ERDREICH, Mr. LEHMAN of Florida, Mr. CALLAHAN, Mr. PETRI, Ms. SNOWE, Mr. WILSON, Mr. DEWINE, Mr. PORTER, Mr. DONNELLY, and Mr. ROBERT F. SMITH.

H.R. 5491: Mr. ACKERMAN, Mrs. BOXER, Mr. FISH, Mr. MADIGAN, and Mr. PALLONE.

H.R. 5505: Mr. STARK, Mr. DELLUMS, Ms. LONG, Mr. HERTEL, Mr. DURBIN, Mr. PENNY, Mr. ECKART, Mr. SLATTERY, and Mr. KLECZKA.

H.R. 5551: Mr. WALGREN and Mr. HERTEL.

H.R. 5553: Mr. CONTE and Mr. ECKART.

H.R. 5560: Mr. MCDERMOTT, Mr. PALLONE, Mrs. JOHNSON of Connecticut, Mr. UDALL, Mr. EVANS, Mr. MOODY, Mr. FASCELL, Mr. BATES, Mr. SKAGGS, Mr. KOSTMAYER, Mr. BEILENSON, Mr. STOKES, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. ATKINS, Mr. RUSSO, Mr. EDWARDS of California, Mr. KLECZKA, Mr. MORRISON of Connecticut, Mr. DELLUMS, Mr. PENNY, Mr. DURBIN, Mrs. SCHROEDER, Mrs. COLLINS, Mr. STUDDS, Mr. LEVINE of California, Mr. YATES, Mr. SLATTERY, Mr. SIKORSKI, and Mr. FOGLIETTA.

H.R. 5582: Mr. BRUCE, Mr. MAVROULES, Mrs. PATTERSON, Mr. RAHALL, Mr. RUSSO, Mr. POSHARD, Mr. BATES, Mr. SOLOMON, Mr. MFUME, Mr. FOGLIETTA, Mr. SMITH of Vermont, Mr. HOCHBRUECKNER, Mr. DEFAZIO, Mr. WHEAT, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. GLICKMAN, Mr. WOLPE, Mr. SANGMEISTER, Ms. PELOSI, Ms. SCHNEIDER, Mrs. MORELLA, Mr. MCNULTY, and Mr. CONYERS.

H.R. 5596: Mr. MOODY.

H.R. 5601: Mr. FROST.

H.R. 5616: Mr. BLAZ and Mrs. LLOYD.

H.R. 5625: Mr. LIPINSKI, Mr. SCHEUER, Mr. RINALDO, Mr. COLEMAN of Missouri, Mr. ENGEL, Mr. SAVAGE, Mr. PENNY, Mr. TORRES, Mr. EVANS, Mr. ANNUNZIO, Mr. MADIGAN, Mr. FRANK, Mr. JONTZ, and Ms. KAPTUR.

H.R. 5666: Mrs. BOXER, Mr. EDWARDS of California, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. HERTEL, Mr. JONTZ, Ms. KAPTUR, Mr. LAFALCE, Mr. MCDERMOTT, Mr. MATUSI, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. POSHARD, and Mr. TOWNS.

H.R. 5677: Mr. HERTEL and Mr. MACHTLEY.

H.R. 5722: Mr. CLINGER, Mr. PETRI, Mr. COLEMAN of Missouri, Mr. LIVINGSTON, Mr. MILLER of Ohio, Mr. ROGERS, Mr. BILIRAKIS, Mr. GALLEGLY, Mr. DORNAN of California, Mr. COURTER, Mr. LIGHTFOOT, Mr. SCHAEFER, Mr. HANCOCK, Mr. COX, Mr. DONALD E. LUKENS, Mr. NIELSON of Utah, and Mr. EMERSON.

H.J. Res. 411: Mr. CARDIN, Mr. WILSON, Mr. FAZIO, Mr. MORRISON of Connecticut, Mr. HOYER, Mr. BEILENSON, and Mr. YOUNG of Alaska.

H.J. Res. 486: Mr. CHANDLER and Mr. SMITH of Texas.

H.J. Res. 492: Mr. QUILLEN, Mr. CRAIG, Mr. HAMILTON, Mr. DERRICK, and Mr. SMITH of New Hampshire.

H.J. Res. 509: Mr. HILER, Mr. HAYES of Illinois, Mr. WOLPE, Mr. DEFAZIO, Mr. HOAGLAND, Mr. ATKINS, Mr. CARDIN, Mr. OBERSTAR, Mr. SANGMEISTER, Mr. STOKES, Mr. BRUCE, Mr. EVANS, Mr. HUTTO, Mr. MCCOLLUM, Mr. MCHUGH, Mr. CALLAHAN, Mr. DELAY, Mr. JACOBS, Mr. EARLY, Mr. BUNNING, Mr. GEREN of Texas, Mr. MILLER of Ohio, Mr. GUARINI, Mr. PICKLE, Mrs. UNSOELD, Mr. RAY, Mrs. PATTERSON, and Mr. BARNARD.

H.J. Res. 595: Mr. OXLEY, Mrs. MARTIN of Illinois, Mr. CLINGER, Mr. SCHEUER, Mr. SKELTON, Mr. STALLINGS, Mr. TAUZIN, Mr. TRAFICANT, Mr. HEFLEY, Mrs. LOWEY of New York, and Mr. ROWLAND of Connecticut.

H.J. Res. 612: Mr. CLARKE, Mr. HALL of Texas, Mr. OLIN, and Mr. SPENCE.

H.J. Res. 636: Mr. PARRIS, Mr. CONYERS, Mr. NEAL of North Carolina, and Mr. CRANE.

H.J. Res. 642: Mr. PAYNE of New Jersey, Mr. NOWAK, Mr. COBLE, Mr. GALLO, Mr. SLATTERY, Mr. HANSEN, and Mr. BLILEY.

H.J. Res. 643: Mr. HAYES of Louisiana, Mr. HARRIS, Mr. MONTGOMERY, Mr. NELSON of Florida, Mr. HAMILTON, and Mr. MCNULTY.

H.J. Res. 656: Mr. EVANS, Mr. POSHARD, and Mr. TRAXLER.

H. Con. Res. 288: Mr. LIPINSKI and Mr. SWIFT.

H. Con. Res. 304: Mr. OWENS of Utah and Mr. VISCLOSKY.

H. Con. Res. 369: Mr. MCDERMOTT, Mr. PORTER, Mr. PEASE, Mr. WOLPE, and Mr. CARDIN.

H. Con. Res. 374: Mrs. BYRON, Mr. KYL, and Mr. CLINGER.

H. Res. 383: Mr. SCHAEFER.

H. Res. 467: Mr. BERMAN, Mr. FUSTER, Mrs. JOHNSON of Connecticut, Mrs. COLLINS, Mr. SCHEUER, Mr. HORTON, Ms. PELOSI, Mr. RANGEL, Mr. HAWKINS, Mr. MOODY, Mr. HAYES of Illinois, Mr. MOAKLEY, Mr. EVANS, Mr. BONIOR, Mr. LAFALCE, Mr. MATSUI, Mr. MORRISON of Connecticut, Mr. SCHNEIDER, and Mr. JOHNSON of South Dakota.

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