

obtain a compulsory license under subsection (a)(1) shall be given effect in lieu of any determination by the Librarian of Congress. Subject to clause (ii), the royalty rates determined pursuant to subparagraph (C), (D) or (F) shall be given effect in lieu of any contrary royalty rates specified in a contract pursuant to which a recording artist who is the author of a nondramatic musical work grants a license under that person's exclusive rights in the musical work under sections 106(1) and (3) or commits another person to grant a license in that musical work under sections 106(1) and (3), to a person desiring to fix in a tangible medium of expression a sound recording embodying the musical work.

“(ii) The second sentence of clause (i) shall not apply to—

“(I) a contract entered into on or before June 22, 1995, and not modified thereafter for the purpose of reducing the royalty rates determined pursuant to subparagraph (C), (D) or (F) or of increasing the number of musical works within the scope of the contract covered by the reduced rates, except if a contract entered into on or before June 22, 1995, is modified thereafter for the purpose of increasing the number of musical works within the scope of the contract, any contrary royalty rates specified in the contract shall be given effect in lieu of royalty rates determined pursuant to subparagraph (C), (D) or (F) for the number of musical works within the scope of the contract as of June 22, 1995; and

“(II) a contract entered into after the date that the sound recording is fixed in a tangible medium of expression substantially in a form intended for commercial release, if at the time the contract is entered into, the recording artist retains the right to grant licenses as to the musical work under sections 106(1) and 106(3).

“(F) The procedures specified in subparagraphs (C) and (D) shall be repeated and concluded, in accordance with regulations that the Librarian of Congress shall prescribe, in each fifth calendar year after 1997, except to the extent that different years for the repeating and concluding of such proceedings may be determined in accordance with subparagraphs (B) and (C).

“(G) Except as provided in section 1002(e) of this title, a digital phonorecord delivery licensed under this paragraph shall be accompanied by the information encoded in the sound recording, if any, by or under the authority of the copyright owner of that sound recording, that identifies the title of the sound recording, the featured recording artist who performs on the sound recording, and related information, including information concerning the underlying musical work and its writer.

“(H)(i) A digital phonorecord delivery of a sound recording is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and section 509, unless—

“(I) the digital phonorecord delivery has been authorized by the copyright owner of the sound recording; and

“(II) the owner of the copyright in the sound recording or the entity making the digital phonorecord delivery has obtained a compulsory license under this section or has otherwise been authorized by the copyright owner of the musical work to distribute or authorize the distribution, by means of a digital phonorecord delivery, of each musical work embodied in the sound recording.

“(ii) Any cause of action under this subparagraph shall be in addition to those available to the owner of the copyright in the nondramatic musical work under subsection (c)(6) and section 106(4) and the owner of the

copyright in the sound recording under section 106(6).

“(I) The liability of the copyright owner of a sound recording for infringement of the copyright in a nondramatic musical work embodied in the sound recording shall be determined in accordance with applicable law, except that the owner of a copyright in a sound recording shall not be liable for a digital phonorecord delivery by a third party if the owner of the copyright in the sound recording does not license the distribution of a phonorecord of the nondramatic musical work.

“(J) Nothing in section 1008 shall be construed to prevent the exercise of the rights and remedies allowed by this paragraph, paragraph (6), and chapter 5 in the event of a digital phonorecord delivery, except that no action alleging infringement of copyright may be brought under this title against a manufacturer, importer or distributor of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or against a consumer, based on the actions described in such section.

“(K) Nothing in this section annuls or limits (i) the exclusive right to publicly perform a sound recording or the musical work embodied therein, including by means of a digital transmission, under sections 106(4) and 106(6), (ii) except for compulsory licensing under the conditions specified by this section, the exclusive rights to reproduce and distribute the sound recording and the musical work embodied therein under sections 106(1) and 106(3), including by means of a digital phonorecord delivery, or (iii) any other rights under any other provision of section 106, or remedies available under this title, as such rights or remedies exist either before or after the date of enactment of the Digital Performance Right in Sound Recordings Act of 1995.

“(L) The provisions of this section concerning digital phonorecord deliveries shall not apply to any exempt transmissions or retransmissions under section 114(d)(1). The exemptions created in section 114(d)(1) do not expand or reduce the rights of copyright owners under section 106(1) through (5) with respect to such transmissions and retransmissions.”; and

(5) by adding after subsection (c) the following:

“(d) DEFINITION.—As used in this section, the following term has the following meaning: A ‘digital phonorecord delivery’ is each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, noninteractive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible.”.

#### SEC. 5. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of “device”, “machine”, or “process” the following:

“A ‘digital transmission’ is a transmission in whole or in part in a digital or other non-analog format.”.

(b) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS.—Section 111(c)(1) of title 17, United States Code, is amended in

the first sentence by inserting “and section 114(d)” after “of this subsection”.

(c) LIMITATIONS ON EXCLUSIVE RIGHTS: SECONDARY TRANSMISSIONS OF SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING.—

(1) Section 119(a)(1) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(2) Section 119(a)(2)(A) of title 17, United States Code, is amended in the first sentence by inserting “and section 114(d)” after “of this subsection”.

(d) COPYRIGHT ARBITRATION ROYALTY PANELS.—

(1) Section 801(b)(1) of title 17, United States Code, is amended in the first and second sentences by striking “115” each place it appears and inserting “114, 115.”.

(2) Section 802(c) of title 17, United States Code, is amended in the third sentence by striking “section 111, 116, or 119,” and inserting “section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115.”.

(3) Section 802(g) of title 17, United States Code, is amended in the third sentence by inserting “114,” after “111.”.

(4) Section 802(h)(2) of title 17, United States Code, is amended by inserting “114,” after “111.”.

(5) Section 803(a)(1) of title 17, United States Code, is amended in the first sentence by striking “115” and inserting “114, 115” and by striking “and (4)” and inserting “(4) and (5)”.

(6) Section 803(a)(3) of title 17, United States Code, is amended by inserting before the period “or as prescribed in section 115(c)(3)(D)”.

(7) Section 803(a) of title 17, United States Code, is amended by inserting after paragraph (4) the following new paragraph:

“(5) With respect to proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 114, the Librarian of Congress shall proceed when and as provided by that section.”.

#### SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 3 months after the date of enactment of this Act, except that the provisions of sections 114(e) and 114(f) of title 17, United States Code (as added by section 3 of this Act) shall take effect immediately upon the date of enactment of this Act.

#### NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a joint oversight field hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation and the Subcommittee on National Parks, Forests and Lands of the House Committee on Resources. The hearing will take place Friday, August 18, 1995, beginning at 11 a.m. and ending at approximately 3 p.m., in the gymnasium of International Falls High School in International Falls, MN.

The purpose of this hearing is to review access and management issues at Voyageurs National Park and the Boundary Waters Canoe Area Wilderness.

The subcommittees will invite witnesses representing a cross-section of views and organizations to testify at the hearing. Witnesses invited to testify are requested to submit one copy of their testimony by 5 p.m. on Tuesday, August 15, 1995, to the House Subcommittee on National Parks, Forests and Lands, House Committee on Resources, 812 Tip O'Neill House Office Building, Washington, DC 20515, facsimile (202) 226-2301. In addition, witnesses are requested to bring 75 copies of their testimony with them to the hearing.

Statements will also be accepted for inclusion in the hearing record. Those wishing to submit written testimony should send two copies of their testimony to the Subcommittee on National Parks, Forests and Lands, House Committee on Resources, 812 Tip O'Neill House Office Building, Washington, DC 20515.

For further information, please call Jim O'Toole of the Senate subcommittee staff at (202) 224-5161.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON FOREIGN RELATIONS**

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 8, 1995, at 10 a.m.

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

**SELECT COMMITTEE ON INTELLIGENCE**

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 8, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

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

**ADDITIONAL STATEMENTS**

**BUDGET SCOREKEEPING REPORT**

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1995.

This report shows the effects of congressional action on the budget through August 5, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget authority and \$20.9 billion in budget author-

ity and \$2.0 billion in outlays. Current level is \$0.5 billion over the revenue floor in 1995 and below by \$9.5 billion over the 5 years 1995-1999. The current estimate of the deficit for purposes of calculating the maximum deficit amount is \$237.4 billion, \$3.7 billion below the maximum deficit amount for 1995 of \$241.0 billion.

Since my last report, dated July 24, 1995, the President signed the 1995 Rescissions and Emergency Supplementals for Disaster Assistance Act—Public Law 104-19. This legislation changed current level of budget authority and outlays; the change was reflected in my report dated July 24, 1995.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, August 7, 1995.

Hon. PETE DOMENICI,  
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through August 5, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 24, 1995, the President signed the 1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104-19). This action did not change the current level of budget authority, outlays or revenues.

Sincerely,  
JUNE E. O'NEILL,  
Director.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS AUGUST 5, 1995  
(In billions of dollars)

	Budget resolution (H. Con. Res. 218) <sup>1</sup>	Current level <sup>2</sup>	Current level over/under resolution
<b>ON-BUDGET</b>			
Budget Authority .....	1,238.7	1,217.8	-20.9
Outlays .....	1,217.6	1,215.6	-2.0
Revenues:			
1995 .....	977.7	978.2	0.5
1995-99 .....	5,415.2	5,405.7	-9.5
Deficit .....	241.0	237.4	-3.7
Debt Subject to Limit .....	4,965.1	4,885.4	-79.7
<b>OFF-BUDGET</b>			
Social Security Outlays:			
1995 .....	287.6	287.5	-0.1
1995-99 .....	1,562.6	1,562.6	( <sup>3</sup> )
Social Security Revenues:			
1995 .....	360.5	360.3	-0.2
1995-99 .....	1,998.4	1,998.2	-0.2

<sup>1</sup> Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.  
<sup>2</sup> Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.  
<sup>3</sup> Less than \$50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS AUGUST 5, 1995

(In millions of dollars)

	Budget authority	Outlays	Revenues
<b>ENACTED IN PREVIOUS SESSIONS</b>			
Revenues .....			978,466
Permanents and other spending legislation .....	750,307	706,236	
Appropriation legislation .....	738,096	757,783	
Offsetting receipts .....	-250,027	-250,027	
Total previously enacted .....	1,238,376	1,213,992	978,466
<b>ENACTED THIS SESSION</b>			
1995 Rescissions and Department of Defense Emergency Supplementals Act (P.L. 104-6) .....	-3,386	-1,008	
Self-Employed Health Insurance Act (P.L. 104-7) .....			-248
1995 Rescissions and Emergency Supplementals for Disaster Assistance Act (P.L. 104-19) .....	-15,286	-590	
Total enacted this session .....	-18,672	-1,598	-248
<b>ENTITLEMENTS AND MANDATORIES</b>			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted .....	-1,896	3,180	
Total current level <sup>1</sup> .....	1,217,807	1,215,574	978,218
Total budget resolution .....	1,238,744	1,217,605	977,700
<b>Amount remaining:</b>			
Under budget resolution .....	20,937	2,031	
Over budget resolution .....			518

<sup>1</sup> In accordance with the Budget Enforcement Act, the total does not include \$7,663 million in budget authority and \$7,958 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and \$741 million in budget authority and \$852 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

**REMARKS OF BISHOP WILLIAM SKYLSTAD ON THE FARM BILL**

• Mr. LEAHY. Mr. President, I would like to submit for the RECORD the remarks of William Skylstad, the Roman Catholic bishop of Spokane, WA, on the subject of the 1995 farm bill. His remarks reflect the policies of the U.S. Catholic Conference, which represents the Nation's Roman Catholic bishops.

Bishop Skylstad's thoughtful remarks reflect the American bishops' desires to save the family farm, promote wise stewardship of the land, alleviate hunger here and abroad, and sustain rural economies—goal that I hope we all share. I urge each Senator to review carefully Bishop Skylstad's observations and recommendations.

The remarks follow:

**TESTIMONY BY MOST REVEREND WILLIAM SKYLSTAD**

I am William Skylstad, the Roman Catholic Bishop of Spokane, Washington. I serve a diocese which is mostly rural, and which has farms of all sizes and shapes. Formerly, I was Bishop of the Diocese of Yakima, Washington. The farming community there relied heavily on migrant labor for its fruit and vegetable harvests. The smaller cities in which I have served have experienced many of the same problems of hunger and poverty that many of our nation's large cities face. So I come today as a pastor with some knowledge of the rural and urban dimensions that this omnibus food and agriculture bill addresses.