

## CENTENNIAL OF FLIGHT COMMEMORATION ACT CORRECTIONS

Mr. DUNCAN. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1072) to make certain technical and other corrections relating to the Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.).

The Clerk read as follows:

S. 1072

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

## SECTION 1. CENTENNIAL OF FLIGHT COMMISSION.

The Centennial of Flight Commemoration Act (36 U.S.C. 143 note; 112 Stat. 3486 et seq.) is amended—

- (1) in section 4—
  - (A) in subsection (a)—
    - (i) in paragraphs (1) and (2) by striking “or his designee”;
    - (ii) in paragraph (3) by striking “, or his designee” and inserting “to represent the interests of the Foundation”; and in paragraph (3) strike the word “chairman” and insert the word “president”;
    - (iii) in paragraph (4) by striking “, or his designee” and inserting “to represent the interests of the 2003 Committee”;
    - (iv) in paragraph (5) by inserting before the period “and shall represent the interests of such aeronautical entities”; and
    - (v) in paragraph (6) by striking “, or his designee”;
  - (B) by striking subsection (f);
  - (C) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and
  - (D) by inserting after subsection (a) the following:
 

“(b) ALTERNATES.—Each member described under subsection (a) may designate an alternate who may act in lieu of the member to the extent authorized by the member, including attending meetings and voting.”;
- (2) in section 5—
  - (A) in subsection (a)—
    - (i) by inserting “provide recommendations and advice to the President, Congress, and Federal agencies on the most effective ways to” after “The Commission shall”;
    - (ii) by striking paragraph (1); and
    - (iii) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6), respectively;
  - (B) by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following:
 

“(b) INTERNATIONAL ACTIVITIES.—The Commission may—

    - “(1) advise the United States with regard to gaining support for and facilitating international recognition of the importance of aviation history in general and the centennial of powered flight in particular; and
    - “(2) attend international meetings regarding such activities as advisors to official United States representatives or to gain or provide information for or about the activities of the Commission.”; and
  - (C) by adding at the end the following:
 

“(d) ADDITIONAL DUTIES.—The Commission may—

    - “(1)(A) assemble, write, and edit a calendar of events in the United States (and significant events in the world) dealing with the commemoration of the centennial of flight or the history of aviation;
    - “(B) actively solicit event information; and
    - “(C) disseminate the calendar by printing and distributing hard and electronic copies and making the calendar available on a web page on the Internet;

“(2) maintain a web page on the Internet for the public that includes activities related to the centennial of flight celebration and the history of aviation;

“(3) write and produce press releases about the centennial of flight celebration and the history of aviation;

“(4) solicit and respond to media inquiries and conduct media interviews on the centennial of flight celebration and the history of aviation;

“(5) initiate contact with individuals and organizations that have an interest in aviation to encourage such individuals and organizations to conduct their own activities in celebration of the centennial of flight;

“(6) provide advice and recommendations, through the Administrator of the National Aeronautics and Space Administration or the Administrator of the Federal Aviation Administration (or any employee of such an agency head under the direction of that agency head), to individuals and organizations that wish to conduct their own activities in celebration of the centennial of flight, and maintain files of information and lists of experts on related subjects that can be disseminated on request;

“(7) sponsor meetings of Federal agencies, State and local governments, and private individuals and organizations for the purpose of coordinating their activities in celebration of the centennial of flight; and

“(8) encourage organizations to publish works related to the history of aviation.”;

(3) in section 6(a)—
 

- (A) in paragraph (2)—
  - (i) by striking the first sentence; and
  - (ii) in the second sentence—
    - (I) by striking “the Federal” and inserting “a Federal”; and
    - (II) by striking “the information” and inserting “information”; and
- (B) in paragraph (3) by striking “section 4(c)(2)” and inserting “section 4(d)(2)”;

(4) in section 6(c)(1) by striking “the Commission may” and inserting “the Administrator of the National Aeronautics and Space Administration or the Administrator of the Federal Aviation Administration (or an employee of the respective administration as designated by either Administrator) may, on behalf of the Commission,”;

(5) in section 7—
 

- (A) in subsection (a) in the first sentence—
  - (i) by striking “There” and inserting “Subject to subsection (h), there”; and
  - (ii) by inserting before the period “or represented on the Advisory Board under section 12(b)(1) (A) through (E)”;
- (B) in subsection (b) by striking “The Commission” and inserting “Subject to subsection (h), the Commission”;
- (C) by striking subsection (g);
- (D) by redesignating subsection (h) as subsection (g); and
- (E) by adding at the end the following:
 

“(h) LIMITATION.—Each member of the Commission described under section 4(a) (3), (4), and (5) may not make personnel decisions, including hiring, termination, and setting terms and conditions of employment.”;

(6) in section 9—
 

- (A) in subsection (a)—
  - (i) by striking “The Commission may” and inserting “After consultation with the Commission, the Administrator of the National Aeronautics and Space Administration may”;
  - (ii) by striking “its duties or that it” and inserting “the duties under this Act or that the Administrator of the National Aeronautics and Space Administration”;
- (B) in subsection (b)—
  - (i) in the first sentence by striking “The Commission shall have” and inserting “After consultation with the Commission, the Ad-

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Space Administration may exercise”; and

(ii) in the second sentence by striking “that the Commission lawfully adopts” and inserting “adopted under subsection (a)”;

and

(C) by amending subsection (d) to read as follows:

“(d) USE OF FUNDS.—

“(1) IN GENERAL.—Subject to paragraph (2), funds from licensing royalties received under this section shall be used by the Commission to carry out the duties of the Commission specified by this Act.

“(2) EXCESS FUNDS.—The Commission shall transfer any portion of funds in excess of funds necessary to carry out the duties described under paragraph (1), to the National Aeronautics and Space Administration to be used for the sole purpose of commemorating the history of aviation or the centennial of powered flight.”;

(7) in section 10—
 

- (A) in subsection (a)—
  - (i) in the first sentence, by striking “activities of the Commission” and inserting “actions taken by the Commission in fulfillment of the Commission’s duties under this Act”;
  - (ii) in paragraph (3), by adding “and” after the semicolon;
  - (iii) in paragraph (4), by striking the semicolon and “and” and inserting a period; and
  - (iv) by striking paragraph (5); and
- (B) in subsection (b)(1) by striking “activities” and inserting “recommendations”;

(8) in section 12—
 

- (A) in subsection (b)—
  - (i) in paragraph (1)—
    - (I) in subparagraphs (A), (C), (D), and (E), by striking “, or the designee of the Secretary”;
    - (II) in subparagraph (B), by striking “, or the designee of the Librarian”; and
    - (III) in subparagraph (F)—
      - (aa) in clause (i) by striking “government” and inserting “governmental entity”; and
      - (bb) by amending clause (ii) to read as follows:
 

“(ii) shall be selected among individuals who—

        - “(I) have earned an advanced degree related to aerospace history or science, or have actively and primarily worked in an aerospace related field during the 5-year period before appointment by the President; and
        - “(II) specifically represent 1 or more of the persons or groups enumerated under section 5(a)(1).”; and
    - (ii) by adding at the end the following:
 

“(2) ALTERNATES.—Each member described under paragraph (1) (A) through (E) may designate an alternate who may act in lieu of the member to the extent authorized by the member, including attending meetings and voting.”;
  - (B) in subsection (h) by striking “section 4(e)” and inserting “section 4(d)”;
- (9) in section 13—
  - (A) by striking paragraph (4); and
  - (B) by redesignating paragraph (5) as paragraph (4).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Massachusetts (Mr. MCGOVERN) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

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

Madam Speaker, last year legislation was enacted establishing a commission to commemorate the 100th anniversary

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of powered flight. This commission is known as the Centennial of Flight Commission. Its purpose is to conduct publicity and public awareness activities designed to honor the achievement of the Wright Brothers.

It was on December 17, 1903, nearly a century ago, that these two bicycle shop owners from Dayton, Ohio, first proved that man could fly.

The bill before us now is really technical in nature. It makes some corrections to the Centennial of Flight Commemoration Act passed last year. After that act passed, the Justice Department pointed out potential conflict of interest problems with the commission's structure. In addition, the General Accounting Office has reported that the structure of previous commissions has resulted in mismanagement of funds and excessive hiring of consultants.

To correct these problems, the Senate, on August 5 of this year, passed Senate 1072, the bill before us now. This bill removes all executive functions from the commission; it transforms the commission into an advisory commission governed by the Federal Advisory Committee Act; it makes clear that the commission does not represent the United States; it specifies in greater detail the duties of the commission; it allows only the administrators of NASA or the FAA to enter into procurements or other legal agreements on behalf of the commission; it makes clear that the commission employees are Federal employees and restricts private members of the commission from participating in any personnel decisions; it authorizes the NASA Administrator, in consultation with the commission, to devise a logo for the commission; and, finally it requires that the members of the commission's advisory board have earned advanced degrees in aerospace, history, or science.

I would like to thank the gentleman from North Carolina (Mr. JONES), the gentleman from Ohio (Mr. HOBSON), and the gentleman from Ohio (Mr. HALL) for their work in ensuring that this legislation could be brought to the floor today. Their states have a significant stake in the work of this commission; Ohio, because that is where the Wright brothers were from, and North Carolina, because that is where the first flight occurred.

Passage of this legislation today will clear the measure for the President and allow the Centennial of Flight Commission to begin the preparations for the commemoration in 2003.

I urge the House to approve this bill.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of S. 1072, the Centennial of Flight Commemoration Act.

On December 17, 1903, Orville and Wilbur Wright completed the first suc-

cessful manned flight of a heavier-than-air-machine at Kitty Hawk, North Carolina. S. 1072 establishes a commission to coordinate the commemoration of this event.

This act, as was pointed out, was originally signed into law last year. Since that time, the Justice Department has advised the administration that certain portions of that law might violate the appointments clause of the Constitution.

S. 1072, as my colleague from Tennessee has already stated, makes the necessary constitutional corrections, and I urge my colleagues to vote for S. 1072 and support the celebration of the birth of flight.

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

Mr. MCGOVERN. Madam Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the Subcommittee on Aviation.

Mr. OBERSTAR. Madam Speaker, I thank the gentleman for yielding me time, and I commend the chairman of the Subcommittee on Aviation for bringing this bill to the floor. The gentleman has aptly and appropriately described the technical changes that made necessary this legislation.

Madam Speaker, I just want to take this opportunity to highlight the significance of the legislation to create a commission that will coordinate appropriately and give proper significance to the 100th anniversary of flight.

The distinguished counsel of the Subcommittee on Aviation on the majority side, David Schaffer and I were at the 90th anniversary of powered flight at Kill Devil Hill, otherwise known as Kitty Hawk, North Carolina, on a day that was very reminiscent of the first day of powered flight: dreary, overcast, windy, damp, a biting cold day, that followed, in 1903, an equally bitter, cold, rainy night that left sleet and ice over the rather flimsy barn in which the Wright Brothers slept so that they could be ready early in the next morning to attempt an historic flight.

It literally brings chills, not just physically, but spiritually, to think of the momentous occasion on which they began that journey that brought us today to an industry that represents 6 percent of our gross domestic product; that, together with aerospace, employs nearly 1.5 million people and has a \$100 billion payroll; and has put America at the forefront of technological advance; an industry that has made America the envy of the rest of the world, and has set a standard that the rest of the world measures itself by.

There will be many stories and many events that we will want to commemorate as this commission moves toward the 100th anniversary, but there is one that I think is appropriate in this body. It was told by my predecessor, John Blatnik, for whom I was administrative assistant. During the years Sam Rayburn served as Speaker, he

and Mr. Rayburn were very close friends.

□ 1445

Early in 1961, the last year of speaker Rayburn's life on this floor, the House had just passed a very significant appropriations bill. Mr. Rayburn put his arm around John Blatnik's shoulder and said, "This is a very nostalgic moment for me. Fifty years ago in this body, I voted for an appropriation of \$50,000 to help two young kids perfect a flying machine for the U.S. Army; their name: the Wright brothers. Today I voted for the first appropriation," said Speaker Rayburn, "to send a man to the moon and bring him back safely to Earth."

As John Blatnik described it, Mr. Rayburn had tears in his eyes. For one person to have lived long enough to see the beginning of powered flight and the beginning of space travel is truly exceptional, and it is an account of visionary leadership that should be described and expressed as we move to the commemoration of the hundredth anniversary of flight, to understand fully how far we have come, what an extraordinary journey this all has been.

I thank the gentleman for bringing this resolution forward, and I urge the commission to begin forthwith, as soon as the necessary legislation is in place, its exceptional work of commemorating this historic milestone in powered flight.

Mr. HALL of Ohio. Madam Speaker, I rise in support of S. 1072, a bill making certain technical and other corrections to Public Law 105-389, the Centennial of Flight Commemoration Act of 1998.

On December 17, 1903, two brothers from Dayton, OH, Orville and Wilbur Wright, on the sands of Kitty Hawk, NC, flew the first manned, controlled, and sustained flight by a power-driven, heavier-than-air machine. The era of flight was born. As we approach the 100th anniversary of this historic event, the conquest of flight remains one of the greatest technological achievements of mankind.

The Centennial of Flight Commemoration Act of 1998 established a Federal commission to assist in commemoration of the centennial of powered flight in the year 2003 and to honor the achievements of the Wright brothers. This is similar to other commissions established to mark important events in our Nation's history.

When signing the bill into law, President Clinton issued a statement raising concerns from the Department of Justice and the Office of Government Ethics. Subsequently, the Commission determined that additional legislation was required for the Commission to carry out its mandate. Members of the Commission wrote the Speaker of the House and the President of the Senate requesting Congress act promptly to address the concerns raised in the President's signing statement.

JANUARY 12, 1999.

Hon. DENNIS HASTERT,  
Speaker of the House, Washington, DC.

DEAR MR. SPEAKER: The Centennial of Flight Commemoration Act (the Act), P.L. 105-389, was signed by the President on November 13, 1998. It establishes a broadly based

Centennial of Flight Commission (the Commission) with members from both the public and private sectors. The purpose of the Commission is to coordinate and promote activities related to the one hundredth anniversary of what is indisputably one of the greatest achievements of the twentieth century—"the first successful, manned, free, controlled, and sustained flight by a power-driven, heavier-than-air machine." (the Act, Section 2(1))

Unfortunately, there are problems with the Act. Upon enactment, the President issued a signing statement noting Constitutional and ethical issues that require further legislative action to resolve, and pledging that "[my] Administration will work closely with the Congress to address these issues in future legislation." As a result of these problems, the Commission is, for all practical intents and purposes, unable to carry out fully its functions under the law. Although two members of the Commission, those representing the National Aeronautics and Space Administration and the Federal Aviation Administration, are not personally affected by the issues the President has noted, the other members are unable to perform any meaningful duties. Because the broad participation of all of the members and all sectors of society is fundamental to the success of the Centennial celebration, the statute must be amended.

As stated in Section 2(4) of the Act, "the achievement by the Wright brothers stands as a triumph of American ingenuity, inventiveness, and diligence." We ask you to approach this new legislative challenge with similar virtues. The one-hundredth anniversary of the flight is December 17, 2003. That date will not change, and the Commission's time to accomplish its important work is short and cannot be extended. Therefore we, the designated members of the Centennial of Flight Commission, urge the Congress to promptly amend the Act to resolve the problems that have been identified.

An identical letter has been sent to the President of the Senate.

Sincerely,

DANIEL S. GOLDIN,  
*Administrator, National Aeronautics and Space Administration.*

JANE GARVEY,  
*Administrator, Federal Aviation Administration.*

RICHARD T. HOWARD,  
*President, First Flight Centennial Foundation.*

DONALD D. ENGEN,  
*Director, National Air and Space Museum.*

J. BRADFORD TILLSON,  
*Chairman, Dayton 2003 Committee.*

After discussions with the Department of Justice and the Office of Government Ethics, Senator MIKE DEWINE introduced S. 1072, the Centennial of Flight Corrections Act of 1999. The purpose of the bill is to amend the law so that the commission can carry out its original objective. Both the Department of Justice and the Office of Government Ethics concurred that S. 1072 does address the concerns raised in the signing statement.

U.S. DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, August 4, 1999.

Hon. MICHAEL DEWINE,  
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: This letter responds to your letter of July 12, 1999, regard-

ing S. 1072, a bill "to make certain technical and other corrections relating to the Centennial of Flight Commemoration Act," Pub. L. No. 105-389, 112 Stat. 3486.

S. 1072 would address the constitutional issues under the Act that previously were identified by the Department and noted in the President's signing statement. At present, the method of appointment of certain members of the Commission does not comply with the Appointments Clause of the Constitution. Accordingly, the Commission as currently established may not constitutionally exercise significant governmental authority, because only "Officers" appointed in conformity with the Appointments Clause may exercise such authority. See *Buckley v. Valeo*, 424 U.S. 1, 124-41 (1976). As the President stated in signing the Act into law, section 9 of the Act, which authorizes the Commission to devise a logo and regulate and license its use, is unconstitutional because it confers significant authority upon the Commission. See Statement by the President Upon Signing S. 1397, the "Centennial of Flight Commemoration Act" (Nov. 13, 1998); Appointments to the Commission on the Bicentennial of the Constitution, 8 Op. O.L.C. 200 (1984).

S. 1072 would amend section 9 of the Act to provide that the Commission's duties with respect to the logo shall be carried out by the Administrator of the National Aeronautics and Space Administration ("NASA"), after consultation with the Commission. Because the Administrator of NASA is appointed in a manner consistent with the Appointments Clause, this amendment would avoid the constitutional problem pertaining to the Commission's logo.

The President's signing statement also noted that: "although section 5(a)(3) directs the Commission to 'plan and develop' its own commemorative activities, the Commission may not itself implement such activities because of Appointments Clause concerns." The bill would amend section 5(a) to make it clear that the Commission's duty to "plan and develop" commemorative activities (as well as its other duties under that subsection) is limited to "provid[ing] recommendations and advice." This amendment would clarify that the Commission acts as a purely advisory body and would avoid any problem under the Appointments Clause.

After consultation with the Office of Government Ethics, we also believe that the bill addresses the conflict of interest issues described in the President's signing statement, by providing that members of the Commission who are employees of State governments or other financially interested entities cannot enter into contracts or make personnel decisions for the Commission and by enabling the State employees to serve as representatives of their employers in the discharge of purely advisory functions.

Thank you for the opportunity to present our views. Please let us know if we may be of further assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

JON P. JENNINGS,  
*Acting Assistant Attorney General.*

U.S. OFFICE OF GOVERNMENT ETHICS,  
Washington, DC, August 3, 1999.

Hon. TONY P. HALL,  
*House of Representatives, Washington, DC.*

DEAR MR. HALL: This letter responds to your letter of July 12, 1999 and the proposed amendment to S. 1072 faxed to this Office on August 2, 1999.

We have reviewed the text of S. 1072 as reported and the proposed amendment. Based

upon our review, we believe that if S. 1072 is enacted with this amendment, members of the Centennial of Flight Commission who are not already Federal officers or employees can, for conflicts of interest purposes, be treated as "representatives" of the organizations from which they are to be selected. Thus, the conflict of interest laws will not apply to them. This result will address the conflict of interest concerns raised in the President's signing statement which accompanied the Centennial of Flight Commemoration Act.

We have reached this conclusion after consultation with the Office of Legal Counsel.

Sincerely,

STEPHEN D. POTTS,  
*Director.*

Upon enactment of S. 1072, the commission can actively encourage and assist individuals and organizations celebrating the centennial of flight. The commission can also assemble a calendar of events, disseminate information about the Wright brothers and aviation history, conduct meetings, and assist with U.S. participation in international commemorative activities.

Mr. Speaker, on numerous occasions Congress has honored the Wright brothers and their conquest of flight. I can think of few events in our Nation's history that are as worthy of this additional honor.

I urge adoption of the bill.

Mr. JONES of North Carolina. Madam Speaker, I rise today in support of the Centennial of Flight Corrections Act of 1999. S. 1072 allows for certain technical corrections to be made to the Centennial of Flight Commemoration Act of 1998, which was passed into law last year. This Commemoration Act honors the 100th anniversary of the historic "First Flight." In 1903, from the windy sand dunes of Kitty Hawk, North Carolina, Orville and Wilbur Wright secured their place in aviation history. With a great deal of courage and determination, the Wright brothers were able to successfully sustain the first-ever power-driven flight, which forever changed the face of transportation.

Arguably, "First Flight," the dawn of air travel, is one of the greatest achievements of the 20th century. This amazing event is particularly important to North Carolinians who have remembered and honored the Wright brothers' achievements for nearly a century. On our Nation's highways, North Carolina's license plates proudly display the motto "First in Flight." In 1998, the Centennial of Flight Commemoration Act established a federal commission to properly celebrate the Wright brothers' accomplishments and coordinate the activities surrounding the centennial in 2003.

The Centennial of Flight Commission will develop a calendar of events, circulate information on the Centennial, help in publishing scholarly works related to "First Flight," and sponsor civic and educational programs in both North Carolina and Ohio. S. 1072 makes in order certain technical corrections to the original Commemoration Act, which are necessary for the Commission to carry out its mandate. I believe the Commission will prove invaluable to the effective coordination of commemorative events as the 100-year mark of the historic "First Flight" quickly approaches. Please join me in honoring the achievements of Orville and Wilbur Wright as well as an unforgettable century of aviation by supporting this bill.

Mr. HOBSON. Mr. Speaker, I would like to share my support of this bill—crafted by my

good friend and colleague, Senator MIKE DEWINE—to make certain technical and other corrections relating to the Centennial of Flight Commemoration Act, which Congress passed last year. After the bill became law, the Department of Justice and the Office of Government Ethics expressed concerns about some of the bill's provisions, which we are here to correct today. I was pleased that members of the Ohio and North Carolina delegations worked together in a timely manner to address those concerns.

As 2003 quickly approaches, I look forward to participating in the commemorative events and celebrations coordinated by the Centennial of Flight Commission. The 2003 celebration will highlight one of history's most remarkable achievements and showcase the impressive growth of the Miami Valley's aerospace industry, which the Wright Brothers pioneered nearly a century ago.

The Wright Brothers of Ohio began this century in flight. The Miami Valley—and indeed the world—will honor their achievement at the dawn of the next century, and look beyond the horizon of history to ask “What if?”

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the Senate bill, S. 1072.

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.

#### GENERAL LEAVE

Mr. DUNCAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill just passed, as well as on H.R. 717, the National Parks Air Tour Management Act of 1999, and H. Con. Res. 187, Expressing the Sense of Congress Regarding the European Council Noise Rule Affecting Hushkitted and Reengined Aircraft.

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

There was no objection.

#### CONFERENCE REPORT ON H.R. 2605, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2000

Mr. YOUNG of Florida submitted the following conference report and statement on the bill (H.R. 2605) making appropriations for energy and water development for the fiscal year ending September 30, 2000, and for other purposes:

##### CONFERENCE REPORT (H. REPT. 106-336)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2605) “making appropriations for energy and

water development for the fiscal year ending September 30, 2000, and for other purposes”, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, for energy and water development, and for other purposes, namely:*

##### TITLE I

##### DEPARTMENT OF DEFENSE—CIVIL

##### DEPARTMENT OF THE ARMY

##### CORPS OF ENGINEERS—CIVIL

*The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.*

##### GENERAL INVESTIGATIONS

*For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, \$161,994,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use the remaining unobligated funds appropriated in Public Law 102-377 for the Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, project for the feasibility phase of the Red River Navigation, Southwest Arkansas, study.*

##### CONSTRUCTION, GENERAL

*For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), \$1,400,722,000, to remain available until expended, of which such sums as are necessary for the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund, as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri; Lock and Dam 14, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota; London Locks and Dam; Kanawha River, West Virginia; and Lock and Dam 12, Mississippi River, Iowa, projects; and of which funds are provided for the following projects in the amounts specified:*

*Indianapolis Central Waterfront, Indiana, \$8,000,000;*

*Harlan/Clover Fork including grading and landscaping of the disposal site at the Harlan floodwall, Pike County, Middleboro, Martin County, Pike County Tug Forks Tributaries, Bell County, Harlan County, and Town of Martin elements of the Levisa and Tug Forks of the*

*Big Sandy River and Upper Cumberland River project in Kentucky, \$14,050,000;*

*Jackson County, Mississippi, \$800,000;*

*Natchez Bluff, Mississippi, \$2,000,000;*

*Passaic River Streambank Restoration, New Jersey, \$6,000,000; and*

*Upper Mingo County (including Mingo County Tributaries), Lower Mingo County (Kermit), Wayne County, and McDowell County, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project in West Virginia, \$4,400,000:*

*Provided, That no part of any appropriation contained in this Act shall be expended or obligated to begin Phase II on the John Day Draw-down study or to initiate a study of the draw-down of McNary Dam unless authorized by law: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, may use \$1,500,000 of funding appropriated herein to initiate construction of shoreline protection measures at Assateague Island, Maryland, subject to execution of an agreement for reimbursement by the National Park Service: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, may use Construction, General funding as directed in Public Law 105-62 and Public Law 105-245 to initiate construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River, except that the funds shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): Provided further, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects, and that the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: Provided further, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission, that the project will not violate the requirements or intent of the Treaty Between the United States and Great Britain Relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the “Boundary Waters Treaty of 1909”): Provided further, That the Secretary of the Army shall submit the final plans and other documents for the emergency outlet to Congress: Provided further, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the portion of the feasibility study of the Devils Lake Basin, North Dakota, authorized under the Energy and Water Development Appropriations Act, 1993 (Public Law 102-377), that addresses the needs of the area for stabilized lake levels through inlet controls, or to otherwise study any facility or carry out any activity that would permit the transfer of water from the Missouri River Basin into Devils Lake.*

##### FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

*For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a and 702g-1), \$309,416,000, to remain available until expended.*

##### OPERATION AND MAINTENANCE, GENERAL

*For expenses necessary for the preservation, operation, maintenance, and care of existing*