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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LAHOOD).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 25, 2002.

I hereby appoint the Honorable RAY LAHOOD to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

Rabbi Melvyn May, West End Temple Sinai Congregation, Neponsit, New York, offered the following prayer:

Our God and God of our fathers, as this session of the House of Representatives begins, we pray that the spirit that permeates this room today will enhance and enrich the endeavors of our Congressmen and Congresswomen on behalf of all the citizens of our great country, the United States of America.

In the words of the Psalmist: How good and pleasant it is for brethren to dwell together. During this period when Jews throughout the world celebrate the High Holy Days and the spirit of renewal, we seek to understand and to do God's will so that all humankind will be free. As a Nation under God, we affirm the obligation of our elected officials to lead this country in the spirit of brotherhood, justice and righteousness that was taught by the prophets.

Almighty God, bestow Your continued blessings upon all of our elected officials and their staffs, for good health, happiness, knowledge and strength.

Implant in the hearts of the Members of Congress a sincere desire to toil together for the aims and goals of our American heritage, as exemplified in the spirit of the Constitution. We pray that unity of purpose and harmony of spirit will forever prevail.

With God's divine guidance may their best ideals come to fruition. Amen.

THE JOURNAL

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

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

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

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

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

Mr. MCNULTY. 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. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

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

Mr. LAMPSON 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that there will be ten 1-minutes on each side.

WELCOMING RABBI MELVYN MAY, WEST END TEMPLE SINAI CONGREGATION, NEPONSIT, NEW YORK

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

Mr. WEINER. Mr. Speaker, I ask the House to join me in welcoming Rabbi Melvyn May, who gave the invocation this morning. He is the spiritual leader of the West End Temple in Neponsit, New York. His path to that post took him through Connecticut, New Jersey and Brooklyn; and in each and every place he held positions of leadership in the community. He was someone who led the campaign for better understanding among our communities.

When he arrived at Neponsit, he arrived at, frankly, a most troubled time in our community. He arrived in October, 2001, one month almost to the day after the horrific attack on the World Trade Center that took so many of our neighbors in Rockaway, and he arrived also one month before a terrible plane crash in Belle Harbor, a stone's throw from his congregation's home.

During that time, Rabbi May, with dignity and with great understanding, led our community through that most difficult time. He has, in a relatively brief time, just about a year, become a force for healing and understanding throughout our community.

At this time of the holidays in the Jewish faith, he has been someone who has also led a campaign for better understanding among our very diverse communities in New York City.

I ask my colleagues in the House to join me in welcoming Rabbi May, and

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we ask that his accomplishments be spread across the record of this great body so that they can be shared throughout the Nation.

U.N. MUST PASS STRONG RESOLUTION ON IRAQ

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

Mr. GIBBONS. Mr. Speaker, last week we heard Iraq agree to allowing U.N. weapons inspectors back into their country without conditions. All I can say is we have been down this road before.

Mr. Speaker, the United Nations must show real backbone if they want to be a meaningful organization in the 21st century. Unfortunately, we have had a decade of defiance and deception from Iraq. Let us not forget that between 1991 and 1998, in spite of 13, yes, 13 different U.N. resolutions mandating unconditional access, Iraq never allowed that to happen.

Saddam always had conditions. Inspectors were kept from presidential palaces, mosques and military installations, just to name a few locations.

The U.N. must pass a resolution that not only mandates unconditional weapons inspections, but also outlines the serious consequences for Saddam if Iraq fails to act and fails to allow U.N. inspectors to do their complete and unfettered job. The U.N. must take control and mandate unfettered inspections, and Saddam Hussein must comply. It is time for the U.N. and not Saddam Hussein to be in the driver's seat.

SUPPORT SECRET SERVICE CHILD PROTECTION ACT

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

Mr. LAMPSON. Mr. Speaker, I stand here today to tell you that the Secret Service does not just protect the President, they also protect missing kids. Nearly a decade ago, Congress authorized the U.S. Secret Service to participate in a multi-agency task force with the purpose of providing resources, expertise and other assistance to local law enforcement agencies and the National Center for Missing and Exploited Children in cases involving missing and exploited children.

This began a strong partnership between the Secret Service and the National Center for Missing and Exploited Children and resulted in the Secret Service providing critical forensic support, including polygraph examinations, handwriting examinations, fingerprint research and identification, age progressions and regressions and audio and video enhancements to the National Center and the law enforcement in numerous missing children's cases.

However, there is a clear need to provide explicit statutory jurisdiction to the Secret Service to continue this forensic and investigative support upon request from local law enforcement, or NCMEC.

I urge Members to support the Secret Service and NCMEC by cosponsoring the Secret Service Child Protection Act, H.R. 5389. Help the Secret Service continue their work on behalf of America's children.

ENSURING AMERICA'S NATIONAL AND ECONOMIC SECURITY

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

Mr. BARTLETT of Maryland. Mr. Speaker, America and the world must overcome the threat posed by Saddam Hussein's continuing effort to control or disrupt supplies of Arab oil. Successful completion of the House-Senate conference on a national energy bill is imperative to ensure America's national security and economic security.

Americans are 5 percent of the world's population, we use 25 percent of the world's oil production, and we produce 30 percent of the world's goods and services. We are the most energy-efficient and productive nation on Earth. However, America has only 2 percent of the world's known reserves of oil. America imports almost 60 percent of our oil, up from 32 percent in 1992 and 34 percent during the last Arab oil embargo. In 2002, Americans have already paid Saddam Hussein $2.3 billion for oil we need to run our economy and our military.

Since 1970, oil production in the United States has declined, with only a tiny blip up from Alaska's Prudhoe Bay. Many experts agree that U.S. oil production will continue to decline, no matter what we do in terms of drilling.

A comprehensive energy bill with advances in conservation, efficiency and alternative and renewable forms of energy will strengthen America's economy and national security and lessen our dependence upon oil from Saddam Hussein.

HONORING JOSEF D'HEYGERS FOR HIS CONTRIBUTIONS TO MATER DEI HIGH SCHOOL

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

Ms. SANCHEZ. Mr. Speaker, today I rise to honor Josef D'Heygers for his contributions to Mater Dei High School in Santa Ana and to our community.

Josef worked as a caretaker for Mater Dei High School for over 40 years, beginning in 1956. He has lived a modest life, living on campus in a trailer filled with crosses and Mater Dei memorabilia.

Josef recently donated his life savings to Mater Dei to assist with the school's plans to expand. His was one of the top donations given to the campaign.

Mater Dei has always been Josef's family. He gave generously because he firmly believes that education keeps teenagers happy and out of trouble, and he wants his gift to offer students what they need for college and for a lifetime of success.

Josef was recently honored by Mater Dei by having the new counseling and classroom building named after him.

I think all of us can learn from Josef's generosity and his dedication to the education of our Nation's children.

SUPPORT BALANCED ENERGY PLAN TO SECURE TERRORIST-FREE FUTURE FOR AMERICA

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

Mr. REHBERG. Mr. Speaker, America is already at war. We are at war against terrorists and those that support evil.

Today we have an important decision to make: Will we continue to finance Saddam Hussein's war machine by buying his oil, or will we support energy independence? I stand here today in support of America and for using America's untapped energy resources.

While our sons and daughters bravely fight terrorism, there are those in this Chamber that would have America continue to import almost 60 percent of our oil from terrorist-sponsoring regimes.

I urge my colleagues to support a balanced energy plan to secure a terrorist-free America for our future.

RESERVATIONS CONCERNING PROPOSED ATTACK ON IRAQ

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

Mr. WU. Mr. Speaker, I rise today to express my grave reservations concerning this administration's proposed attack on Iraq. If there were evidence of an imminent threat against us or an attack on Iraq's neighbors, I would not hesitate to use force. But every successful American wartime President, Lincoln, Wilson, Roosevelt, Kennedy, presented evidence to the Nation and to the world that war was absolutely necessary, and thereby led a united Nation in purpose and in moral certitude.

Mr. Speaker, I want to quote a President who avoided becoming a wartime President. In averting a war with France almost 2 centuries ago, John Adams wrote to his wife, Abigail: ''Great is the guilt of an unnecessary war.''

If there is evidence of imminent necessity, I ask the administration to present it now. We owe it to ourselves, to the world, and to posterity.

GETTING THE AMERICAN ECONOMY ON TRACK

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

Mr. PETRI. Mr. Speaker, today I am introducing legislation to help get our economy going again, to get people investing again and to strengthen America's retirement.

My bill will help to boost stock market performance by providing a real incentive for investors to keep their hard-earned money in the market. This bill will achieve that goal by ending the double taxation of dividends.

Currently dividend income is taxed twice, first as corporate income and again as personal income. This tax policy diminishes the value to shareholders of dividend-paying stocks.

By treating dividend payments differently from interest, we are providing a disincentive for corporations to return earnings to shareholders. Not surprisingly, dividend payments have declined in recent years.

Encouraging the regular payment of dividends by ending their double taxation will attract new investors and help to stop the slide of the stock market.

□ 1015

TIME TO END INTEREST-FREE LOANS TO THE GOVERNMENT

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I am here today to call for an end to huge interest-free loans to the government. That is why I have a plan that would fix a portion of the alternative minimum tax problem for those who purchased incentive stock options from their employer. H.R. 5398 would allow taxpayers to apply their prepaid ISO taxes under AMT against up to half of their regular income tax liability.

Mr. Speaker, many taxpayers have prepaid thousands of dollars of taxes with little ability to use those accumulated credits. In essence, people are floating the government a huge interest-free loan. It is just plain wrong, and it must stop.

My bill fixes that so families who have put second mortgages on their homes, cashed out retirement savings, sold assets, and struggled to work out payment plans with the IRS can get their money back and get on with their lives. It is the least we can do for America.

TIME TO PASS PENSION PROTECTION LEGISLATION

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

Mr. BOOZMAN. Mr. Speaker, it has been over 5 months since we passed H.R. 3762, the Pension Reform Security Act. This issue is still a concern to the third district of Arkansas, yet Congress has not completed work on the legislation that will protect my constituents' pensions.

The bill we passed back in April evens out the playing field between senior level executives and the men and women of their workforce. This bill relaxes diversification rules for rank and file workers, enhances worker access to quality investment, and provides a number of much-needed retirement security reforms.

Mr. Speaker, pension reform and protection are critical to restoring investor confidence in our faltering marketplace, and the completion of this bill is critical to the agenda of the 107th Congress. I encourage my colleagues in the House to reaffirm our commitment to pension protection by voting for House Resolution 540 today.

AMERICANS SHOULD PRAY FOR PEACE

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

Mr. DOGGETT. Mr. Speaker, tonight at 6 o'clock at Freedom Plaza at 13th and Pennsylvania, a number of area religious leaders will gather in a prayer vigil for peace. This afternoon, several of the victims from 9/11 will be here to affirm that they think peace is the better course, particularly since there has been a total inability of the Administration to connect the terrorist events of 9/11 with Iraq.

I believe that Americans must pray and must petition their elected representatives here in the Congress to be more than a speed bump on the fast track to war in Iraq, a war that will take thousands of lives, a war that will take hundreds of billions of dollars from American taxpayers.

Now is the time to speak out and speak out firmly in favor of the security of our country and our families, and doing it in a constructive and reasonable way, not by launching a war against a despot in Iraq.

HAPPY 75TH BIRTHDAY TO HENRY HILL

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

Mr. ISAKSON. Mr. Speaker, I rise today to acknowledge and celebrate the 75th birthday of Dr. Henry Hill of Cobb County, Georgia. Henry is my friend and my mentor and, most importantly, he was my first successful campaign manager. But I do not rise for myself, I rise for thousands of parents, thousands of children, thousands of teachers.

Henry's life has been dedicated to public education as a principal, as a coach, as a teacher, and as a counselor. Normally on birthdays we give the recipient a gift, but on this birthday, number 75 for Henry, I acknowledge the gift he has given to thousands and thousands of our children.

May God Bless Henry Hill.

PROTECTING AMERICA AGAINST TERRORISTS, THUGS, BULLIES, AND MURDERERS

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

Mr. HAYES. Mr. Speaker, I rise today in response and in direct opposition to statements that have been recently made. Everyone in this House wants peace; the question is how. Those who say that we and the President have not connected the dots either cannot read or refuse to assess the information that is readily available in both secret and public briefings. We can look to the former weapons inspectors, we can look to the research data behind Prime Minister Blair's speech, and we can look at the research backing up the President of the United States' speech to the U.N.

Mr. Speaker, the evidence is clear. We will protect America against terrorists, against thugs, bullies, and murderers like Saddam Hussein. In visiting Fort Bragg, our soldiers, sailors, airmen, and Marines are ready to do what it takes to protect America and the civilized world.

STAND UP FOR AMERICA'S PENSIONERS

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

Mr. TIERNEY. Mr. Speaker, I thought we might take a minute this morning to talk about the fact that while our economy struggles and while families across America watch helplessly as their retirement savings dwindle away as a result of corporate greed and mismanagement, while health care costs soar to ever-higher rates, and while prescription drug prices rise at 5 times the rate of inflation, the leadership in this House can still be counted on to protect the interests of corporate moguls and wealthy special interests at the expense of hard-working American families.

A case in point. With the startling news that 401(k) and other defined contribution plans lost $210 billion last year, and IRAs lost $230 billion, the majority in this House still thinks it perfectly all right for companies to provide conflicted investment advice to their employees, advice from analysts who have a stake in the very stocks that they are touting, analysts who receive financial benefits from promoting certain stocks, even if they know they are of questionable value.

Some of us tried to do something about that and correct the inequity

when we considered the so-called pension reform bill last spring. My amendment would have provided truly unconflicted advice to investors, and that is the direction we ought to go. The bills that are in front of the House later on today, Mr. Speaker, do not move in that direction, and we need to stand up for the American people whose investments are dwindling and do the right thing.

AMERICA'S INTERESTS SHOULD BE FIRST ON THE FLOOR OF THE HOUSE

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

Mr. KINGSTON. Mr. Speaker, now, let us just kind of go back in time. Suppose it is August 2001, and a Member of Congress is speaking to a Rotary Club or something and says, listen, there is a guy out there, a known terrorist named Osama bin Laden. He has a group called al-Qaeda, and they have found sanctuary and training opportunities inside the corrupt Taliban government of Afghanistan. Now, I am telling you here and now, in August 2001, ladies and gentlemen, we need to instruct the President of the United States and instruct the CIA to take him out. We need to work with maybe an international coalition to get rid of this guy.

Now, if a Member of Congress had been saying that 13 months ago, he would have been laughed at, he would have been ridiculed, and he would have been called a warmonger and, yet, how right that statement would have been 13 months ago.

Now, are we not in the same position? We have Saddam Hussein, he hates America, he harbors terrorists, he has been directly and indirectly involved with all kinds of terrorist activity, many against America, all around the globe. Is it not prudent to take the course of action that our President is doing?

Mr. Speaker, this is not time for partisanship or cowering behind whatever boundaries or ideas that one has; this is time to put our best thoughts together and work together as a Nation, as Democrats and Republicans, and bring America's interest first to the floor of this House and get behind the President of the United States.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will now put the question on the approval of the Journal and then on each motion to suspend the rules on which further proceedings were postponed on Tuesday, September 24, in the order in which that motion was entertained.

Votes will be taken in the following order:

on approving the Journal, de novo;

on H.R. 2982, by the yeas and nays;

and on H. Con. Res. 297, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question de novo of the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal of the last day's proceedings.

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

Mr. MCNULTY. 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.

This will be a 15-minute vote followed by two 5-minute votes.

The vote was taken by electronic device, and there were—yeas 366, nays 48, answered ''present'' 1, not voting 17, as follows:

[Roll No. 407]

YEAS—366

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Sullivan
Sununu
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (FL)

NAYS—48

Aderholt
Baird
Baldwin
Borski
Capuano
Crane
DeFazio
English
Filner
Fossella
Gutknecht
Hastings (FL)
Hilliard
Hinchey
Holt
Hulshof
Johnson, E. B.
Jones (OH)
Kennedy (MN)
Larsen (WA)
Latham
LoBiondo
McDermott
Miller, George
Moore
Oberstar
Olver
Pallone
Peterson (MN)
Phelps
Ramstad
Sabo
Sanchez
Schaffer
Schakowsky
Strickland
Stupak
Sweeney
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Waters
Weller
Wicker
Wu

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—17

Callahan
Clay
Ehrlich
Maloney (NY)
Mascara
Matsui
McKinney
Meek (FL)
Mink
Mollohan
Paul

Roukema
Stump
Thurman
Towns
Whitfield
Young (AK)

□ 1049

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

VICTIMS OF TERRORIST ATTACKS MEMORIAL ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2982, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 2982, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No. 408]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Callahan
Clay
Hunter
Maloney (NY)
Mascara
Meek (FL)
Mink
Mollohan
Paul
Roukema
Stump
Thurman
Towns
Young (AK)

□ 1059

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.

The title of the bill was amended so as to read: ''A bill to authorize the establishment of a memorial to victims who died as a result of terrorist acts against the United States or its people, at home or abroad.''.

A motion to reconsider was laid on the table.

RECOGNIZING HISTORICAL SIGNIFICANCE OF 100 YEARS OF KOREAN IMMIGRATION TO THE UNITED STATES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 297.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 297, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 15, as follows:

[Roll No. 409]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham

Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Tiahrt
Tiberi
Tierney
Toomey
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—15

Callahan
Clay
Hunter
Maloney (NY)
Mascara
Meek (FL)
Mink
Mollohan
Paul
Roukema
Stump
Thurman
Towns
Watkins (OK)
Young (AK)

□ 1108

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ABORTION NON-DISCRIMINATION ACT OF 2002

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 546

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Tuesday, the Committee on Rules met and granted a closed rule for the Abortion Non-Discrimination Act of 2002. H.R. 4691 strengthens existing law by saying that health care entities should not be forced by the government to provide abortions. It is a very small but very important step in the right direction. It simply protects conscience rights of those organizations who do not want to be involved in abortion.

I urge Members to act promptly to enact the Abortion Non-Discrimination Act, which will address the crisis of conscience rights and begin to eliminate the intolerance, coercion and discrimination against health care participants who do not believe in participating in abortion procedures due to moral or religious beliefs.

In 1996 Congress passed a law that forbids government discrimination against health care entities that refuse to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions or to provide referrals for such training for such abortions.

However, due to recent judicial misrepresentation, H.R. 4691 is needed to clarify that health care entities include all health care organizations, including hospitals. It is a simple, commonsense and technical change.

I am pleased that in my home State of North Carolina a physician or a nurse does not have to perform abortion if it is against their religious principles. The same applies for hospitals and health care institutions. In fact, 44 other States have similar conscience clauses. So this is not something new and different.

As a cosponsor of this legislation, I am very pleased to see it reach the floor of the House.

I also believe that today a growing number of health care practices, procedures and medications present serious moral concerns for many health care providers. Recent medical and pharmacological developments increasingly put health care entities at the vortex of some of society's controversial moral dilemmas.

Increasingly, there is pressure upon health care providers, both individuals and organizations, to put aside personal moral beliefs in order to facilitate convenient access to new drugs, procedures and technologies. In the ordinary course of professional life, without any additional pressures, these dilemmas arise often enough to create crisis for tens of thousands of health care entities.

However, in addition to these dilemmas, there are increasing pressures upon health care participants to facilitate or provide products or services which violate their own conscience. Advocates of particular procedures and programs, particularly major promoters of abortion, are systematically singling out health care providers and entities to squeeze and compel them to abandon their moral values as the price to pay to remain in the profession or in the market.

Mr. Speaker, health care providers want this bill in overwhelming numbers, believing in their hearts that they too have a right to choose, a right to choose not to be involved in destroying life. To that end, I urge my colleagues to support the rule and the underlying bill.

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

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, it has been a mere 6 weeks since the leadership lobbed on to the House floor a bill targeting women and their reproductive health care. Be assured that the election season is upon us, and in the face of a crumbling stock market and exploding deficits and uncertain war on terrorism at home and calls for new war in Iraq, of this we can be sure: Congress will use the floor of the House of Representatives to push propaganda restricting a

woman's ability to make her own decisions rather than deal with the overriding issues at hand.

□ 1115

Mr. Speaker, Congress does not have the right or the expertise to make these decisions for the American people. The last time Members were facing a life-or-death decision, or their constituents were facing a life-or-death situation, who would they want with them in the emergency room? Did they want their physician, their spiritual adviser, family members, or would that patient say wait until a Member of Congress gets here because Congress will have the last word on this issue? I am sure that the American public would give us a resounding no. We are basically practicing medicine without a license.

Direct mail pieces distorting the issue are already being printed and will hit the streets as soon as the vote is completed. This vote is pure politics. This measure is cynical and unconstitutional. Moreover, everyone in the Senate knows that the Senate will not touch it.

In the meantime, the real work of the Congress as mandated by the Constitution goes undone. Our most fundamental duty of funding the Nation's priority has ground to a halt. With the fiscal year ending in less than a week, the President has yet to sign a single appropriations bill. The press reports indicate that the majority leadership has under consideration a plan to simply quit work and go home and come back and try again next year, using a long-term continuing resolution to disguise that fact that the people's House has ceased to perform anything but election-year gimmicks at taxpayers' expense.

It is almost superfluous to note that this is a closed rule. For those following the deliberations of this body on controversial matters, it should come as no surprise. The majority has chosen to shut out meaningful debate. Under this closed rule, no amendment will be allowed. For a bill that impacts so fundamentally on the life of so many, this is unconscionable.

For those school children who may be visiting this Chamber today, I wanted to offer a quick history lesson. Silence was not always the case here. Free-flowing debate used to be the norm. The Chamber used to team with ideas and with voices of passion from all regions of the country. Today these voices are shut out. My colleagues, the gentlewoman from Colorado (Ms. DEGETTE), the gentleman from California (Mr. WAXMAN), and the gentleman from Pennsylvania (Mr. GREENWOOD), attempted to have an amendment made in order in the Committee on Rules to prevent the most egregious effects of the underlying bill taking effect. Their efforts were struck down almost immediately along a party-line vote. It is my hope that someday true debate will return to this Chamber and the voices of our constituents will not be silenced.

But today, Mr. Speaker, instead of debate, we will have an up-and-down vote on a bill that will radically expand existing law. This legislation would essentially allow any health care entity, including hospitals, health insurance companies, or HMOs, to exempt themselves from current Federal, State and local laws that assure women have access to reproductive services. I want to make the point here that that says that the Hyde amendment, which was passed by Congress which allows a person who has been a victim of rape or incest to have an abortion, will be overridden by this bill. It says that any law or regulation by a State or the Federal Government can be overridden.

Now, any law or regulation that covers any kind of coverage will be considered discriminatory against a health care entity that does not want to comply, for any reason at all, not merely religious, and could not be enforced. Remember, the religious exemption has been in legislation for years. That is not what we are doing today. The penalty for any State or local government which discriminates is the loss of all, all Federal financial assistance. At a time when hospitals and local governments are hanging on by a thread, such a loss of Federal funds would be devastating.

H.R. 4691 has been brought to the floor without any committee consideration and over the strong objections of the moderate Members of the majority party. Moreover, for a party that prides itself on attention to States' rights, it is ironic that this legislation will override the progress of States that have worked to ensure that women not only have access to reproductive services, but also the right to basic information.

This bill reinstates the gag rule. Many in this body may not realize it, but the Federal Government does not pay for abortion services. As I mentioned before, the Hyde amendment to the Medicaid program stipulates that Medicaid patients must have access to these procedures only in cases of rape, incest or when the pregnancy endangers a woman's life. That would be gone. This bill before us overrides even that most narrow of exceptions. Moreover, States like mine, who use their own Medicaid funds to cover abortion services beyond those narrow circumstances if they wish, and in fact, 21 States do so, this bill would preclude these States from enforcing their own laws and constitutional decisions in the area of reproductive services for low-income women.

Mr. Speaker, this bill is not limited to reproductive services themselves. Under the bill, States would be prohibited from requiring health care entities participating in the Medicaid programs to provide referrals for reproductive services. It would prohibit States from ensuring that patients have all of the information they need to make an informed choice about themselves, the gag rule again.

Moreover, this bill is a direct assault on the doctor-patient relationship. Under this legislation, the administrative hospitals or HMOs could gag the doctors who work under them from discussing basic information about abortion services with their patients. We restrict no other professionals from giving the best of their advice to people who seek it.

This law provides no guidelines for why these administrators may be gagging physicians from providing or even discussing reproductive services. It will say simply to save the HMO more money. The legislation is a gross expansion of the powers of the managed-care entities to severely limit the options available to the patients that they supposedly serve. The legislation would also undermine a State's ability to set health care licensing and certification standards. Imagine that, we would be setting certification standards and licensing for them from here as well.

In deciding whether to approve a hospital merger, for example, a State could not consider whether a newly merged hospital system would diminish a community's access to full reproductive health services. This would tie the hands of States like New Jersey that are trying to ensure that entire communities are not completely without any qualified abortion providers.

In fact, supporters of the bill have stated that this is their intent. The measure is opposed by numerous groups, including the National Council of Jewish Women, Catholics for Free Choice, the American Association of University Women, the American College of Obstetricians and Gynecologists, the Center for Reproductive Law and Policy, National Organization of Women, the National Partnership for Women and Families, People for the American Way, and the Planned Parenthood Federation of America, and certainly me.

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

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

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

Mr. HAYES. Mr. Speaker, today I rise in strong support of the rule and the Abortion Nondiscrimination Act. The gentlewoman from New York (Ms. SLAUGHTER) strayed a bit from the subject, and I feel the necessity to respond.

As far as the work of the House is concerned, the House is doing its work. Under article 1 section 7, clause 2, the House has passed a budget and many other important pieces of legislation. As required by law, we have done our work. The Senate has not passed a budget.

More importantly, to say that protection of human life is not significant

legislation is as sadly wrong as it possibly can be. H.R. 4691 is simply a clarification of current law. This existing nondiscrimination statute that Congress overwhelmingly approved and President Clinton signed into law in 1996 protects health care entities from being forced by the government to perform abortions. Because of judicial misinterpretation, H.R. 4691 is needed to clarify that health care entities include all health care organizations, including hospitals.

In recent years, there has been a growing nationwide effort to attack the conscience rights of Catholic and other private health care providers. Alaska courts have assumed they have the authority to force private hospitals to provide abortions as a condition for receiving Federal funds or for full participation in the health care system. It is imperative that we clarify the protections contained in current law to ensure that no hospital is forced to perform abortions against its will. I support the rule and the underlying bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I cannot help thinking that we are moving back to the 16th century. This is the most far-reaching assault on women that I have ever seen in this House. I want to put a human face on this. In 1963, I was an intern at the Buffalo General Hospital. I dealt with two poor women who had back-alley abortions. One had eight children, one had six. They were done with coat hangers, and both those women died. I still see their faces.

At the same time that was going on in Buffalo at the place I now live, Seattle, women could go down to a travel agency, buy a ticket to Japan, have a day's shopping and an abortion, and come home. Now, that is the circumstance in 1961, 1962, 1963 in this country.

For us to be moving back in this direction, overriding Roe v. Wade, and the Hyde amendment, is simply a step back into the dark ages and it is absolutely wrong. This is not a women's issue; this is a human issue. Those 14 children in Buffalo who grew up without their mothers because their mothers could not have full reproductive services in a decent hospital in a major city in the United States are what Members are saying is all right for all of the children of this country.

Leave no children behind, my President has said. Well, this is guaranteed to leave children behind if we step back this far into the past. I urge Members to vote against this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I rise in support of the rule, H.R. 4691. Today we have the opportunity to support freedom of conscience for those in our health care system and who have invested their lives in caring for their fellow Americans. Forty-six States protect hospitals and health care professionals who choose not to participate in abortions; and even though there is existing law, Federal law, intended to protect individuals and entities from being forced to participate in an abortion, clarification is still needed, and that is what we are doing today.

Some hospitals and doctors are being forced to go against their conscience and provide abortion services. In spite of existing law, this coercion still exists. For example, the National Abortion and Reproductive Rights Action League has a project in Maryland that aims to require every Maryland hospital to provide abortion services.

H.R. 4691 will guarantee that hospitals, insurance companies, and health care professionals will not be forced to take part in a procedure that they deem morally wrong and disagree with.

Whether one supports a right to life or a right to abortion, participating in or paying for abortion should not be forced upon anyone. I urge Members to stand with me in supporting this rule and our constituents' freedom of conscience.

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

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today in strong opposition to H.R. 4691. It is a misguided measure that has dangerous implications for women's reproductive health and for our health care system as a whole.

Of course, elections are near, so this debate might be advanced because of a right wing, anti-choice agenda. We have heard and it has been made quite clear that their political schemes are worth sacrificing the health of American women. This bill robs women of their right to get comprehensive information about their medical and legal options, and this bill will leave health care providers at the whim of the anti-choice movement.

□ 1130

The current state of our health system is obviously weakening day by day. Our constituents are experiencing increased premiums or they are being dropped by their plans altogether, and now the right wing of this Congress is prepared to tell our constituents that their right to make an informed decision is being taken away.

Mr. Speaker, rather than putting patient access to care in further jeopardy, why are we not working to improve access to quality health care? This bill also is a slap in the face to State and local governments that have implemented policies that put a woman's health ahead of bad politics.

We cannot fall for the outrageous antics of the anti-choice community. We cannot let them twist another health care issue into a political issue. That is why I implore my colleagues, my colleagues on both sides of the aisle, vote against this extremely harmful measure and vote against this rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, for many individuals, opposition to abortion is not just a matter of choice but it has been a matter of conscience and faith. Many individuals so moved to oppose abortion are the health care providers who at one time under Federal law found themselves in the difficult position of objecting to the procedure but being forced to perform it. Fortunately in 1996 Congress recognized that those who choose to oppose abortions should not be forced to administer the procedure and passed legislation protecting those, as they called them, health care entities from being forced by the government to perform those abortions.

Since the passage of that law, though, those who do not want to respect the right of individuals to conscientiously object to performing this procedure and want to ignore the will of Congress have fought this provision nationwide. The attack has been successful in cases such as in Alaska where courts have decided that they can force private hospitals to provide abortions as a condition of fully participating in their health care system. The ignorance of the faith and conscientious objection of American health care professionals and organizations is unacceptable.

That is why I support this legislation. It simply clarifies language in the law so that all health care entities, including Catholic hospitals and individual health care professionals other than physicians, are covered and can freely object to performing abortions on the basis of their conscientious decision.

Opponents of the bill have argued that this legislation will block access to emergency care for poor women or that it will interfere with a State's right to enforce abortion laws. None of this is true. The bill simply protects the conscientious objection of health care providers who oppose abortion.

Mr. Speaker, this is a simple and very direct bill. It does not expand or change any rights of women. What it does is it allows for the free exercise of a conscientious objection of a health care provider.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds to respond to the previous speaker. It does indeed change women's rights. It puts a gag rule on women, and the religious exemption that she talks about clarifying is already in legislation. What this does is drive women back to back alleys.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today in strong opposition to H.R. 4691 and in opposition to the rule that we are considering

right now because we should not be considering this legislation at all. Despite the wishes of the bill's promoters, our United States Constitution does in fact guarantee American women the right to choose an abortion. And while this bill does not directly overturn Roe v. Wade, it might as well for many women do that since it will make access to abortion impossible for them. To talk about this as a technical change is simply cynical. This is one of the most dangerous attempts to restrict a woman's right to choose, including her right to information and services regarding her reproductive health.

H.R. 4691 would allow an HMO or a health insurance company to decide for any reason whatsoever that it will no longer pay for, provide information or even make referrals for abortion services even if the woman's life is endangered or she is a victim of rape or incest. Under this bill, it would be impossible for a State to ensure that women who are victims of rape or incest or whose life is threatened would have access to abortions. In this world today, there are decreasing options for everyone in choosing health insurance companies or HMOs.

So are we going to leave it, then, to an employer to decide whether or not a woman would have a right to choose in essence because that HMO would deny them access to the abortion? And in rural areas where there may be only one option for a woman to go, she is denied that opportunity to have her full health services available to her.

What this bill really does is allow any health care entity to ignore all Federal, State and local laws pertaining to abortion services, information and referrals. It is not a conscience clause as some would like to call it, as if HMOs have a conscience. In fact, there are no Federal laws that currently exist that require any individuals or hospitals to provide abortions. But this bill would restrict a doctor's rights; that is, his right if he believes in his medical judgment or in his conscience that it is his responsibility to provide those services, he could not do that. So this does limit the right of doctors not to be forced to perform it but to be forced not to perform abortions.

Women in this country need to be able to trust that when they go to a doctor with a problem or a condition that they will be given all information necessary to make informed decisions. But this bill would gag doctors. Informed consent as a minimum is a valued and expected component of our health care system. So why do we think that when it comes to women's health it is okay to throw even this concept out the window?

This is unacceptable. I urge a ''no'' vote.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I think those of us that have served in public office at all know that when you come to the abortion question, there are two very highly charged and two different views on this subject. Some people think that abortion should be legal and that it is a matter of a human right and somebody's choice. Other people think that abortion is wrong and it is a form of murder. There are people in our country and in each of our districts that hold both of these views with a great deal of tenacity.

But the question before us today is really not the question of abortion. We are not going to address this underlying issue. What we are talking about instead, the question is as to whether we protect various health care organizations or individuals, whether we want to protect their right to have a choice, to even have an opinion on the subject.

What is going on here is that the abortion agenda is not really content with choice. The only choice that they are content with is that everybody has to agree with them and that we are going to compel someone else to that choice. It is always understood, I think, by most reasonable people that one person's rights stop where another person's rights start. But that is not the case here. Instead, the right of some health care organization to have an opinion on this subject is going to be hammered by the big fist of government. That is not reasonable.

All we are saying is that the person that has to provide the service needs to have a choice as well. One person's right stops where another's right starts.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I want to say, there is already conscience exemptions and everybody knows that. That is not why we are here today. We are really here today to turn back the clock. Without any doubt, a woman who has the opportunity even to understand what her rights are and what her options are, this is an appalling thing that we are doing. This is not an ordinary law we are talking about here. This is life and death. A woman who has come into a hospital raped, scared to death, does not know what to do, needs somebody to talk to, may have the unlucky option of coming across a doctor who says his conscience forbids him from discussing it with her, comforting her or giving her any idea that she has options.

But since this House is all politics all the time in this Chamber, I want to give you some statistics that I think might be interesting on a political issue. The vast majority of Americans oppose allowing institutional health care providers to deny service on the basis of moral or religious objections. Seventy-six percent of the public opposes giving hospitals an exemption allowing them to refuse to provide medical services to which they object on religious grounds. Eighty-nine percent of the public opposes allowing insurance companies to refuse to pay for medical services to which the insurance company objects on religious grounds. Seventy-nine percent of the public finds convincing the statement that religiously affiliated hospitals should not be allowed to force their religious beliefs on other people. And frankly, I expect that nigh 100 percent of the people in the United States do not believe that Congress should impose its religious beliefs on them.

Mr. Speaker, I include the following material for the RECORD:

AMERICAN CIVIL LIBERTIES UNION,
WASHINGTON NATIONAL OFFICE,
Washington, DC, September 24, 2002.

DEAR REPRESENTATIVE: The ACLU urges you to vote against H.R. 4961, the so-called ''Abortion Non-Discrimination Act'' when it is considered on the House floor tomorrow. Drafted by the U.S. Conference of Catholic Bishops and sponsored by Representatives DICK ARMEY (R-TX), JOSEPH PITTS (R-PA), and MICHAEL BILIRAKIS (R–FL), H.R. 4691 would allow a broad range of health care entities to refuse to comply with a wide array of federal, state, and local requirements to provide abortion services or information about those services.

Refusal clauses such as H.R. 4691 permit a person or entity to refuse to provide reproductive health services. The ACLU believes that such clauses should be tested against two factors: (1) the extent to which the clause protects religious refusals that place burdens on people who do not share the beliefs that motivate the refusal (by ''burdens,'' we mean obstacles to health care and other critical personal interests, but not the mere exposure of third parties to religious practices or the tax or other financial burdens that may result from permitting certain exemptions); and (2) the extent to which the clause protects institutions engaged primarily in religious worship or instruction, or instead exempts institutions engaged in a secular pursuit in the public sphere. Although this test is not compelled by an legal ruling, the ACLU believes that it strikes the appropriate balance between reproductive rights and religious freedom. H.R. 4691 fails this test because its burdens would fall primarily on those who do not share the beliefs that motivate the refusal and because it protects institutions engaged in the public and secular provision of health care. Because H.R. 4691 amounts to a broad noncompliance permit for religious entities that employ and serve people of all faiths, that perform a variety of public functions, and that accept public financial support, the ACLU strongly opposes this bill.

H.R. 4691 radically alters existing law by providing broad license for all manner of health care entities—from hospitals to insurance companies to HOMs—to avoid basic legal requirements imposed by all levels of government. The bill prohibits a governmental entity from ''discriminating''—that is, treating a health care entity differently—on the basis of the entity's refusal to perform, refer, train, cover, or pay for abortions. But merely enforcing federal, state, and local laws designed to ensure access to abortion services, or to information about those services, could constitute ''discrimination'' against entities that object to those laws. This bill could thus deny women access to critical information about their health care options, interfere with the delivery of abortion services to poor women in medical emergencies, and impede states' ability to enforce their own laws on abortion.

H.R. 4961:

Would compromise the ability of Title X clients to obtain information critical to their health. Title X, which provides federal funds for contraceptive services for low-income individuals, requires that grantees provide a referral to a qualified abortion provider upon request as part of non-directive options counseling. H.R. 4691 would prohibit the federal government from enforcing this regulation because it could be deemed ''discriminatory'' to deny Title X grants to providers that refuse to make abortion referrals. The bill could thus undermine federal standards and compromise the health of low-income pregnant women by denying them critical information;

Would interfere with the delivery of abortion services to poor women in dire emergencies. H.R. 4691 would impede compliance with the Hyde Amendment, which mandates Medicaid coverage of abortions in cases of rape, incest, or where the pregnancy endangers a woman's life. Requiring Medicaid managed care organizations to provide such coverage, or to provide information concerning such coverage, could constitute ''discrimination'' against those entities that refuse to provide or refer patients elsewhere for these services;

Would interfere with states' ability to enforce their own laws on abortion. H.R. 4691 could prevent those states that cover medically necessary abortions beyond those mandated by the Hyde Amendment (whether as a result of state constitutional rulings or by virtue of state laws) from effectuating that coverage by contracting only with Medicaid managed care organizations that agree to provide or refer patients elsewhere for abortion services. (More than fifteen states require such coverage.) The provision would interfere with these states' ability to enforce their own laws and to manage and ensure delivery of mandated services within their own Medicaid programs;

Would disrupt the enforcement of state health care regulations. H.R. 4691 would thwart the enforcement of state and local laws that require entities certified or licensed by the state to address the full range of health care needs in the communities they serve. A state might be prevented, for example, from denying a ''certificate of need'' (a state-issued document that is similar to a permit) to a newly merged hospital that refused to provide even lifesaving abortions and thus left pregnant women in the community without help in medical emergencies. (Mergers between religiously affiliated hosiptals and secular hospitals often raise this issue because some religious hospitals insist that the newly merged entity apply religious doctrine in the provision of health services.);

Could violate basic principles of federalism. H.R. 4691 might interfere with the enforcement of rulings by those state courts that have concluded that their state constitutions require broader protection for reproductive freedom than the federal Constitution provides. For example, proponents claim that the bill would overrule Valley Hospital v. Mat-su Coalition for Choice, 948 P.2d 963 (Alaska 1997), in which the Alaska Supreme Court concluded that the Alaska Constitution requires that quasi-public hospitals provide abortion services. If interpreted as its proponents urge, this bill would abrogate this state constitutional decision because it would prohibit ''discrimination'' against quasi-public entities for their refusal to provide or refer for abortions. It would thus strip states of autonomy and violate basic principles of federalism;

Could interfere with the enforcement of certain state trust laws. Some state laws prevent health facilities established as charitable trusts from making significant changes in their charitable purposes. For example, charitable trust laws may prohibit a hospital founded specifically to serve a broad segment of the community from eliminating the provision of reproductive health services. At least one state has enforced its charitable trust law against a hospital that sought to convert from a community facility to a religiously controlled facility that provided more limited reproductive health services. Proponents of H.R. 4691 argue that such a state would be deemed to have impermissibly ''discriminated'' against the hospital under the bill; and

Could immunize a health care entity's refusal to provide emergency contraception, even to victims of rape. Because it does not define the term ''abortion,'' H.R. 4691 could permit health care entities to refuse to provide emergency contraception (''EC''), even to victims of rape. Although EC is merely a high dose of ordinary birth control pills and does not interrupt an established pregnancy, some religiously affiliated providers define EC as an ''abortifacient.'' They could use this bill to attempt to shield themselves from repercussions for refusing to comply with state laws that require hospitals to provide EC (or referrals for EC) to rape survivors in their emergency rooms.

Where the Public Stands: The vast majority of Americans oppose allowing institutional health care providers to deny services on the basis of moral or religious objections:

76% of the public opposes giving hospitals an exemption allowing them to refuse to provide medical services to which they object on religious grounds.

89% of the public opposes allowing insurance companies to refuse to pay for medical services to which the insurance company objects on religious grounds.

79% of the public finds convincing the statement that ''[r]eligiously affiliated hospitals should not be allowed to force their religious beliefs on other people.''

For all of these reasons, the ACLU urges you to oppose H.R. 4691.

Sincerely,

LAURA W. MURPHY,
Director.
GREGORY T. NOJEIM,
Associate Director and Chief Legislative Counsel.

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

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I know this is a difficult issue for everybody and I regret to have to rise in strong opposition to this rule and to encourage the Republicans and Democrats, pro-life and pro-choice, to oppose this rule.

I do not know how many of you know women in America who use prescription contraceptives to plan their families, to manage their reproductive capability, but in my experience of the women who are of childbearing age, 99 percent, 95 percent, a very large percent of women in America use prescription contraceptives and many States require that any health plan offering prescription drugs include prescription contraceptives in order to be a non-discriminatory prescription drug plan.

This bill for the first time explicitly says that any HMO CEO, who personally defines prescription contraceptives as an abortifacient, can alter their plan to deny women the right to coverage under their prescription drug plan of prescription contraceptives.

Ladies and gentlemen, that is wrong. Never have we given, and here it is right in the bill, a provider sponsored organization, (that is a PSO), a health maintenance organization, (that is an HMO), a health insurance plan the power to deny legal benefits. Health insurance plans and the standards they must abide by are set by State law. This is a massive override of State law that regulates health insurance plans and benefits.

I have personally stood on this floor and voted against some very popular health mandates that have frankly come back to haunt me politically because the Federal Government should not be mandating health benefits on States and State plans. This is doing exactly that and it is giving this power arbitrarily to an individual HMO CEO to override State law. We have never done that. We have never stood on this House floor and allowed individuals to say in conscience, when it might well be not in conscience but in cost, the right to make such decisions in opposition to State law! Are we going to allow the conscience clause now to be polluted as an economic instrument?

The protection in conscience is clear. Forty-five States have laws protecting doctors, nurses, all health care professionals, so they do not have to provide sterilization, abortion, or any procedure that in conscience they do not agree with. Furthermore, Catholic hospitals do not have to provide facilities. No institution that in conscience does not agree has to provide services or facilities. They not only do not have to do it if there are doctors or nurses that do not agree, but the institution is protected. All this does is say CEOs are protected as well.

Did you vote for a patients' bill of rights? I do not care whether it was the Democrat's Patients' Bill of Rights or the Republican's Patients' Bill of Rights, the whole goal of that was to allow patients and doctors to make decisions about health plans and not HMO CEOs.

I urge you to vote down this rule. We need a much greater discussion than to bring this up in the waning days of a session that has not passed its appropriation bills.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 1 minute.

I thank the gentlewoman from Connecticut for her very thoughtful remarks. One point she made that I think is terribly important is that we are turning religious exemption, moral thoughts and moral attitudes into an economic issue by saying we simply will not do this. But, moreover, let me make the point that we made earlier when we talked, that any hospital that flies in the face of this legislation will be restricted of all Federal aid, all of it.

□ 1145

And if the Members' hospitals are like mine, and I see no reason why they would not be, this would be devastating to them and hospitals would have to close all over the country.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, let me reiterate some of the points that have been made but most importantly the fact that we should defeat this rule. This rule is a closed rule. It did not allow a very simple amendment which would have essentially said that doctors will not be gagged from telling their patients what is the best medical information for those patients. Why on earth with an issue like this that was never even taken through committee, and I know that because I sit on the committee of jurisdiction, would we then bring a closed rule to the floor with a bill as outrageous and sweeping as this bill? I urge a ''no'' vote on the rule. And when we look at the consequences of passing the bill, even if the rule did pass, even if the doctors would be gagged, this bill is such an expansion of law that we cannot pass legislation that will hurt patients so badly.

This legislation is the biggest gag rule we have ever seen. It will not protect Catholic hospitals from providing abortions or even referrals to most people. They are already exempt under current law.

The bill would allow any hospital, any health insurance, any clinic, any HMO to deny services, coverage, or even referrals for abortions for any reason whatsoever. Proponents of this bill will say the purpose is to ensure that hospitals with religious affiliations do not provide services that conflict with their values. This is simply not true. First of all, they do not have to right now. Secondly, there is nothing in this bill about opting out of services or information due to religious values. In fact, there is nothing in this bill about religion at all. Anti-choice lawmakers are trying once again to back-door a bill that restricts women's reproductive choices, and this time they are hiding behind the Vatican to do it.

Let me say it again. Catholic hospitals do not have to provide abortion services under current law, and individual providers at any health care facility can opt out of providing abortions by invoking a conscience clause. This is current law.

Let me tell my colleagues what most health care entities do have to do. They have to give women information about their options. A law preventing them from doing so is a gag rule, plain and simple. And the majority of people in this country want their full medical options and are fiercely opposed to gag rules.

Let me tell my colleagues what current laws that this bill would override. The Emergency Medical Treatment and Active Labor Act passed in 1986 requires that if a pregnant woman who comes to an emergency room is dying, is dying, due to the complications of the pregnancy, they have to try to save her life. If an abortion is deemed an immediate lifesaving measure, then they do have to provide one. This bill would overturn that.

So if you think it is acceptable for pregnant women to bleed to death in emergency rooms because some hospitals have a policy of no abortion even under the circumstances of the life of the mother or rape or incest, vote for this bill.

Today if a Medicaid patient comes to an emergency room after being raped and is found to be pregnant as a result of the rape, that hospital is at least obligated to give her a referral if she asks for one. This bill would overturn that. This bill would let a hospital say, I am sorry, you were raped, you want an abortion, but we cannot give you any information about that.

So if you want victims of rape or incest to be ignorant of their options, vote for this bill. If you want HMOs to have more power over what reproductive services they will pay for, vote for this bill. If you want to tell every city, State, and locality that we know better than they do how to provide reproductive health for their citizens, vote for this bill. But if you do not believe in gag rules, if you believe women deserve access to information, if you believe in States' rights, if you believe the women of this country have the right to make their own decisions about their health care, vote against this bill and, importantly, vote against the rule.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, it has been fascinating to listen to the debate on the other side on this bill. This issue began in 1996 when some of the residency training programs were moving in a direction to require that to be certified and eligible to obtain one's license and specialty, such as OB/GYN, one could be forced to receive training in performing abortions. The Congress has a long-established track record of supporting the rights of conscience on this very, very controversial issue. There are many, many Americans, including many physicians, who feel as I do that abortion is morally wrong, that it is killing the unborn, and that nobody should be forced to learn how to do an abortion if they do not want to do it, and, importantly, no health care entity should be forced to perform abortions.

The original statute that was enacted over the signature of Bill Clinton was language that was actually put forward in the Senate by Senators Coates and SNOW. I will point out that she is pro-choice, and she stated at the time that she wanted to protect the rights of conscience, that people who feel strongly that abortion is killing should not be forced to have to do it. Now, that statute had some language in it that I thought was sufficiently broad. It says health care entities, and I thought a hospital was a health care entity. But the people on the left who are trying to advance the abortion agenda have managed to get courts to interpret that hospitals are not health care entities and that being that they receive Federal dollars and other State dollars, they could, and in the State of Alaska they have done this, be interpreted to be required to perform abortions.

If my colleagues do not think the left is trying to advance their agenda, I have this here in my hand. They have since taken this off their Web site. This is Maryland NARAL. It says: ''For these reasons Maryland NARAL is launching the Hospital Provider Project. The goal of the Hospital Provider Project is to increase access to abortion services by requiring Maryland hospitals to provide abortion and other reproductive health care.'' So that is really what this debate is about. They have found a loophole in the Federal law and they are trying to drive a truck through it. Eighty-five percent of hospitals in America today avoid this issue by not providing abortion services and a pro-abortion crowd of the court wants to drag them into court and interpret a statute which we thought protected the right of conscience in such a way that it would force them to have to provide this.

I want to touch on two things that people keep bringing up. Number one, this is going to interfere with all the Federal dollars. I do not know what else to say, other than that is a total misinterpretation of the statute. The interpretation that we have received is that, and these are decisions that have come out of the administration, that it will not interfere.

The other thing I want to comment on is this business about contraception. Contraception is not defined by the FDA as abortion. The morning-after pill is not defined by the FDA as abortion. It is defined as contraception. It is something different. So to interpret this statute to claim that it is going to prohibit access is to take essentially a religious entity's doctrine and put that into the statute, and it is just not there. It is not in the language.

So I know people can disagree on interpretations of law. When I look at this law and the legal scholars that I have had analyze it, they assert that that is a falsehood.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Members are reminded to refrain from improper references to the other body, including characterizations of positions of the Senate or individual Senators.

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

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, as we heard earlier, this is an issue that deeply divides our country and us individually. I am passionately pro-life, and I believe it is a shame on America to watch these young kids get killed. But that is not what this bill is about.

This bill is about whether people who share my view about abortion have the right to practice their conscience in America and what are we doing to trample religious rights in America, of people who voluntarily join a health plan that shares their moral and religious beliefs.

Religious institutions, particularly the Catholic Church in this country, founded hospitals to care for the poor and to practice the saving of life. To be able in this country to force them to fund, provide abortion counseling or other things are anathema to their religious beliefs and is wrong.

The bill that my former employer, former Senator Coats, passed in the Senate, intended to address this conscience clause.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Will the gentleman suspend.

The Chair would remind Members to refrain from improper references to the other body, including characterizations of Senate actions.

Mr. SOUDER. As a former staff member, I think I have some flexibility for him.

The SPEAKER pro tempore. The Chair would remind all Members that we do have rules in the House, and the Chair would ask Members to abide by the rules.

Mr. SOUDER. Mr. Speaker, the question in Alaska overruled what was, in my opinion, at least, what my former employer intended to say, that the Alaska Supreme Court struck down the conscience clauses applied to the hospital, holding that there was no compelling State interest in the conscience rights of the hospital.

Now, if compelling State interests overrules a Federal law that is based on religious freedoms based on our Constitution and laws that are passed, we are in deep trouble.

You can see by the intent that my friend, the gentleman from Florida (Mr. WELDON), just referred to of the Maryland national abortion rights group, their goal is to force those of us who deeply feel that abortion is murder to be able to not have our own plans for healthcare, to not fund our own hospital systems, to not have any alternative but to fund what we view as one of the fundamental evils in the United States.

We can continue to fight abortion in this House and we will continue to fight about it, but those of us who deeply hold that this is a fundamental life should not be forced to fund in any way or participate in plans that require us to lay out dollars that require those of us who share that faith to practice what we believe is murder.

Furthermore, I was deeply offended by the line that said we are trying to hide behind the Vatican. The Council of Catholic Bishops, their pro-life activities have spoken out on this, and there should not be cheap shots at the Catholic Church or those of us who share many deeply held religious views based on those views.

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

Mr. Speaker, I want to respond to the previous speaker who brought up the Alaska decision, because the Alaska Supreme Court concluded that the Alaska State Constitution requires that quasi-public hospitals provide abortion services.

Anti-choice forces use this decision to claim that private religious hospitals will be forced to perform abortions against their will. In fact, Valley Hospital is a non-religious institution with deep ties to the State and local government. It was built on land donated by the city using $10.7 million in State funds.

Perhaps most importantly, the hospital had been granted a monopoly by the State to operate in the Ma-Su Valley, effectively insulating it from competition in a wide geographic area.

Based on the significant ties to the State, the Alaska courts ruled the hospital was effectively public and that the Alaska State Constitution therefore prohibited the hospital from banning abortions.

This bill, if passed, would violate those basic principles of Federalism by abrogating this State court ruling.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today to speak in support of the rule on H.R. 4691. This legislation does not give new rights, nor does it take away any. Rather, it is just a clarification of the current law.

As we previously heard from other speakers, in 1996, Congress overwhelmingly, and I repeat, overwhelmingly, approved the existing nondiscrimination statute that protects healthcare entities from being forced by the government to perform abortions. Only because of judicial misinterpretation are we here today to clarify that healthcare entities include all healthcare organizations, including hospitals.

I would like to note what is at stake here, and that is the freedom to abstain from performing an act that one considers to be morally and ethically wrong.

□ 1200

Catholic hospitals, which are particular targets, have had a long history of locating themselves in impoverished areas where not many others are willing to go. They do this as part of their ministry and yet, there is a movement to shut down these hospitals because they refuse to perform abortions. This is not only ridiculous, but it is callous to all of the people who will suffer without the services that these hospitals provide.

Mr. Speaker, we must stop infringing upon the rights of hospitals, hospital workers, and the patients that they serve. I urge my colleagues to vote ''yes'' on the rule and to vote ''yes'' on the final passage of H.R. 4691.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

Anybody who votes for this rule because they think that they are preserving religious exemptions is exactly wrong. Religious exemptions are already in law.

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

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, to their everlasting credit, 86 percent of hospitals in America do not do abortions. Why? Because they are all about saving life, nurturing, and healing. Pregnancy is not a disease; the unborn child is not a wart or tumor to be killed. Chemical poisoning, literal dismemberment, abortions, are violence against children.

This is all about protecting the right of conscience. NARAL let the cat out of the bag on one their web sites. They said, Maryland NARAL is launching this hospital provider project to increase access to abortion services by requiring Maryland hospitals to provide abortion. They want to compel hospitals of conscience to do abortions—it's that simple.

Not all of the hospitals are religious. There are people who are not religious who have deep, moral convictions, and they believe that abortion takes the life of a baby. We ought to be nurturing. We should not compel our places of healing to become killing fields.

Ms. SLAUGHTER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentlewoman from New York.

The SPEAKER pro tempore (Mr. THORNBERRY). The time of the gentleman from New Jersey (Mr. SMITH) has expired.

Ms. SLAUGHTER. Mr. Speaker, I yield myself 30 seconds.

In one of those 85 percent of the hospitals that perform no abortions, if a woman should walk in bleeding, dying from a botched abortion, what would they do?

Mr. SMITH of New Jersey. Mr. Speaker, if the gentlewoman will yield, they would do everything to help that woman survive and, in the process of trying to heal her and to attend to her botched abortion, they would probably remove the baby who is probably already dead.

We are talking about doing everything to save both lives. That is what the hospitals and the emergency rooms

throughout this country are about. That is not what this issue is all about.

The SPEAKER pro tempore. The time of the gentlewoman from New York (Ms. SLAUGHTER) has expired.

Ms. SLAUGHTER. Mr. Speaker, I yield myself another minute, and then the gentleman may respond if he would like to.

Before Roe v. Wade was passed, women had no option in the world except to go to a back alley, turning themselves over to unspeakable people with filthy hands and dirty equipment, and oftentimes they had to go to doctors and hospitals to try to be saved. Does the gentleman from New Jersey know that many of those hospitals were afraid to take them? Is the gentleman aware that women died? Is the gentleman not aware that if this bill were to pass, that hospitals might again be afraid in a circumstance like that to save a woman, lest they violate this legislation?

Mr. SMITH of New Jersey. Mr. Speaker, this just says to opt out of the killing of unborn babies.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair and to properly yield time back and forth, not to enter into a conversation.

The gentlewoman from New York (Ms. SLAUGHTER) controls the time.

Ms. SLAUGHTER. The Speaker is perfectly right, Mr. Speaker, and I apologize. I simply want to make the case that if 85 percent of the hospitals refuse to give reproductive services in the United States, women will die.

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

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, since Roe v. Wade, there have been in excess of 42 million unborn children killed by the abortionists, through chemical poisoning, through dismemberment, and most of those are for socioeconomic reasons: Abortion on demand. The baby was unwanted therefore he or she was expendible.

What the abortion lobby is attempting to do is to expand the number of places where those children can be destroyed.

Our hope is that Members will vote for this rule. There will be a motion to recommit, there will be an up-or-down vote on a motion that is from the pro-abortion side. I would hope that Members would vote ''no'' on that motion to recommit and then vote ''yes'' on the Bilirakis bill.

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

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. Speaker, I rise today on certainly a matter of public policy and a matter of law, but I rise more passionately in support of this rule on a matter of conscience. I am a pro-life Member of this institution and I do not apologize for that. But today's debate I would offer humbly is not really about the debate over life and choice in America; today's debate is actually about the freedom to choose, which is a central tenet of the American experience.

In the same way that no one should be forced to honor a creed that they do not protest or honor a faith that they do not hold, no one and no institution, Mr. Speaker, should be forced to perform abortions against their will, their charter, their faith, their conscience. They should be able to choose, Mr. Speaker.

Now, we are debating here whether or not this institution will take measures to enforce the express will of this institution. Legislation that was signed by President Clinton in 1996 made the law which we seek to defend today the law of the land, Mr. Speaker, but through judicial activism from the bench in Alaska and elsewhere in America, our courts are abrogating the will of the American people as expressed in the laws passed in this institution. We rise today simply to clarify current law.

I say with great respect to my passionate colleagues on the other side of this issue, Mr. Speaker, that there is no hidden agenda here. This is not about denying funding to hospitals, or prescription drugs, or that women will die. The agenda here is very, very public. It is whether or not in America today, in America's health care institutions, there is the freedom to choose; whether there is a freedom of conscience, a freedom of religion, or whether the modern orthodoxy of abortion will be enforced on hospitals as the law of the land.

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

Mr. Speaker, sponsors of the bill do claim that this is just a simple clarification of existing law, but that is absolutely not the case. This is an enormous change in Federal law and would represent an unprecedented intrusion by Congress onto State and local rights. We need to think about that.

Mr. Speaker, all of us believe in life. Some of us simply believe that women should have the right to choose to live as well.

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

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, the other side says this is about choice and, yet, when health care professionals, hospitals across the United States make a choice not to perform abortions, like 86 percent of them do today, abortion proponents have teamed up to force them to perform abortions anyway, regardless of religious objections, regardless of moral objections, regardless of conscientious objections. We have a conscience clause law passed in 1996 that talks about health care entities, but because of court opinions like the one by the Supreme Court in Alaska, we have to clarify that these entities do include hospitals.

Now, look at what the other side has said. They want to increase access to abortion services by requiring hospitals; it does not say suggest, it does not say urge, it does not say pressure, it says require every hospital in the State of Maryland to perform abortions. That means every Catholic hospital, every Lutheran hospital, every government hospital. That is what they want.

In New Jersey, the pro-abortion lobby sued Our Lady of Lourdes Health Care Services, that is a Catholic agency, and tried to force them to provide abortion. We have heard about Alaska where the pro-abortion lobby went after the Valley Hospital, from whom we heard testimony on the committee, who did not want to provide abortions in the small town of Palmer, and they actually succeeded in the court case that went up to the Supreme Court that ruled that they had to perform abortions.

What happened to the right to choose? What happened to the right of conscience? I guess the right of choice only applies if you agree with the pro-abortion lobby's agenda.

Mr. Speaker, no one should be forced to have an abortion; no one should be forced to perform an abortion.

The other side is talking here on the floor about a vast right-wing conspiracy. Well, if there is a conspiracy in America, maybe it is the vast left-wing conspiracy to shove abortion down everyone's throat. Support the rule, support the bill.

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

I want to say to the gentleman who just spoke that hospitals have been protected since the 1970s, and there is no question about that, and that we are very keen on our side on life and health.

I want to remind everybody of a little bit of history. I am sure all of my colleagues remember the great bill on community health centers which we have not been able to reauthorize for a year. At the end of last year it came up for reauthorization on the suspension calendar and, at the last minute, they attempted to add this piece of legislation to it, but there was such an outcry that they were forced to pull it off. So this year we are going back the other way around. This bill has to be dealt with before all of the community health centers in the United States can get their due from the Congress. That, sir, is a tragedy.

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

Mrs. MYRICK. 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 SPEAKER pro tempore. The question is on the resolution.

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

Ms. SLAUGHTER. 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 229, nays 194, not voting 9, as follows:

[Roll No 410]

YEAS—229

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
LaFalce
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—9

Callahan
Maloney (NY)
Mascara
McKinney
Mink
Roukema
Stump
Thurman
Towns

□ 1237

Mr. HALL of Texas changed his vote from ''nay'' to ''yea.''

Ms. HARMAN, Mrs. BIGGERT and Mr. LANGEVIN changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BILIRAKIS. Mr. Speaker, pursuant to House Resolution 546, I call up the bill (H.R. 4691) to prohibit certain abortion-related discrimination in governmental activities, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4691 is as follows:

H.R. 4691

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 ''Abortion Non-Discrimination Act of 2002''.

SEC. 2. ABORTION NON-DISCRIMINATION.

Section 245 of the Public Health Service Act (42 U.S.C. 238n) is amended—

(1) in the section heading, by striking ''REGARDING TRAINING AND LICENSING OF PHYSICIANS'' and inserting ''REGARDING TRAINING, LICENSING, AND PRACTICE OF PHYSICIANS AND OTHER HEALTH CARE ENTITIES'';

(2) in subsection (a)(1), by striking ''to perform such abortions'' and inserting ''to perform, provide coverage of, or pay for induced abortions''; and

(3) in subsection (c)(2)—

(A) by inserting ''or other health professional,'' after ''an individual physician'';

(B) by striking ''and a participant'' and inserting ''a participant''; and

(C) by inserting before the period the following: '', a hospital, a provider sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization or plan''.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 546, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 30 minutes.

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

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

Mr. Speaker, I am pleased that this important legislation is before us today. We introduced H.R. 4691, the Abortion Nondiscrimination Act, to provide clarity, and I want to emphasize that, to provide clarity to an existing law, I emphasize that, to an existing law, that protects health care entities from being forced to perform abortions against their consciences. The bottom line purpose of this bill is that.

In 1996, the Congress passed and former President Clinton signed the current statute into law which is known as conscience protection. This law was intended to ensure that no health care entity would be discriminated against on the basis that they did not perform abortions. However, court interpretations have called into question whether these sections of law apply to hospitals that object to offering abortions. That is why we must act quickly to clarify existing law to ensure that these protections are afforded to all types of health care entities.

Mr. Speaker, I would like to clarify two points in debate on this bill. Some have charged that this legislation is a massive expansion of current protections; and, Mr. Speaker, that is just false. The original law was intended, whatever happened to legislative intent for crying out loud, the original law was intended to apply to the broadest definition of health care entities. Transcripts from the debates in 1996 and in extensions of remarks in 1998

show that the original authors of the conscience protection intended a broad definition, a broad definition of health care entity. The other contention is that somehow this bill would allow facilities to not provide life saving care. Again, this is false. In fact, in all cases, facilities are regulated, as we know, by laws that require the provision of life saving care and all hospitals are prepared to provide appropriate life saving care.

What this bill does do is protect facilities from being mandated to offer abortions. We must ask ourselves if we want to force people to provide elective procedures that are fundamentally in opposition to their consciences. The gentleman from Indiana (Mr. PENCE) said it very well during the debate on the rule. ''I would add that neither the American Medical Association, nor the American Hospital Association believe that anyone, anyone, should be forced to provide elective care against their conscience,'' and again I emphasize elective care, against their conscience.

Mr. Speaker, this bill is really a very simple technical correction. It is not a massive expansion or a policy to limit access to health care for women. On the contrary, this bill ensures that all facilities will continue to be free to provide the types of services that they find appropriate, and it will not force facilities to close because of fundamental objections to elective medical procedures.

Mr. Speaker, this is a good bill and I urge all of my colleagues to support H.R. 4691.

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

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

Mr. Speaker, we are spending a few hours today debating the abortion nondiscrimination bill. Despite this bill's troubling implications for women and despite the strong concerns many of my colleagues and I have about the bill, Republican leadership bypassed the committee and brought it straight to the floor.

While we debate this bill today, a number of issues continue to languish. When my colleagues and I have asked Republican leadership to hold a hearing on legislation that promotes greater competition in the prescription drug marketplace and brings down the cost of prescription drugs, they did nothing. When we asked them to bring the competition bill to the floor, they did nothing.

The Senate has passed similar legislation. If we were to debate it on the floor today, we would pass it, and we would be one step closer to bringing down the cost of prescription drugs. Yet, this Republican leadership is going to send us home before our work is done without passing a bill to cover prescription drugs, without passing a bill to try to get the price of prescription drugs down.

Now, today's House Republicans are proposing legislation that curtails health care information and curtails services available to women, again, before they bring something as important as prescription drug pricing to the floor. The public has every right to question the priorities of Republican leadership. While the partisan proponents of this bill, H.R. 4691, while the partisan proponents of this bill say it is a simple clarification of existing law, experts agree it is a broad, sweeping change to existing law.

□ 1245

Federal law now allows doctors and hospitals to refuse to perform abortion services because of their religious beliefs. That is Federal law. That is the way it should be. That is what we all agree on.

This bill, however, allows insurance plans and HMOs, not religious organizations, insurance plans and HMOs to refuse to provide or to make a referral for abortion services regardless of religious background, regardless of a woman's medical needs. Under this bill, insurance companies could deny coverage of family planning services just because the time spent with the patient doing nondirective counseling just might eat away at the HMO's bottom line.

Under this bill, Medicaid patients would no longer be guaranteed access to abortion counseling, to abortion counseling in cases of rape and incest, or where the pregnancy endangers the woman's life. Under this bill, State law expanding health insurance requirements to include coverage of nondirective family planning counseling would become irrelevant.

The current conscience clause allows doctors and hospitals to refuse to provide services they are opposed to for religious reasons. That is the way it should be. This bill, however, gags doctors, gags hospitals, regardless of their religious belief. It denies women access to medically necessary services, again regardless of religious beliefs.

Existing law protects a woman's right to medically accurate information. It protects a State's right to govern by its constitution and its laws, and my friends on the other side of the aisle always talk about States rights, unless they do not like the State law. It protects the medical institution's right to refuse to provide services they are religiously opposed to.

Mr. Speaker, we should have passed the prescription drug bill. We are obviously not doing that today. We should be promoting women's health. We are sure not doing that today. What we are doing is compromising women's health.

I urge my colleagues to oppose this expansive, broad-ranging infringement on women's rights and infringement on women's health. It is a bad bill. Vote ''no.''

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

The gentleman easily forgets that we passed a prescription drug bill last June, and it is the other body which has sat on it.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PITTS), a member of the committee.

Mr. PITTS. Mr. Speaker, in America we believe in rights. We believe in the right of free speech. We believe in the right to choose our religion, right to peaceably assemble, other rights that are enshrined in our Declaration of Independence and every American's right to act according to the dictates of his conscience.

Historically, this right to conscience has applied to individuals and to private organizations as well. In 1996, Congress enacted a law to protect the right of a health care entity to decline to participate in abortion and if they had a conscience against killing unborn children, to decline to participate in this. However, some have read the 1996 law very narrowly to say that it protects only residents and residency programs and only in a training context, and we have had court decisions saying that this health care entity language does not include the full range of participants in providing health care, such as hospitals and health plans and professionals of the facilities.

So this bill, ANDA, the Abortion Non-Discrimination Act, would clarify existing law, strengthen existing law by providing that health care entities should not be forced by the government to pay for abortions or be penalized or discriminated against by government agencies for choosing not to provide or to perform abortions which 86 percent of our hospitals presently choose. It is needed to respond to this national effort that was referred to earlier on the floor by certain groups to force all health care providers to participate in abortions; and we have cited examples in New Jersey, in Alaska, others in Connecticut, in New Hampshire, various places.

So the opponents raise issues like gag rule. Protection from being forced to do abortion referral is part of the 1996 law now. This bill does not create it. Exemption from informed consent or counseling requirements is not found in the 1996 law or in this bill. There is no gag rule here. The bill's protections apply to those who do not want to perform or to make arrangements for or to subsidize abortions against their will.

Mr. Speaker, this is not a radical law. This is reasonable. Pro-choicers and pro-lifers have sponsored this bill that we have before us today. We should not force Catholic hospitals to refer for abortion or provide for abortion or other hospitals who have a conscience against it. I urge support of the bill.

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

I would add that the gentleman from Florida (Mr. BILIRAKIS) mentioned this House passed a drug bill in June, one written by the drug companies and advertised by the drug companies and does not serve consumers.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), who had an amendment he wanted to offer to this bill that the partisan majority would not allow him to offer yesterday in the Committee on Rules.

Mr. WAXMAN. Mr. Speaker, the bill before us is an enormous change in current policy about reproductive health, about patients' rights and about federalism. It is not a simple clarification as some have termed it. That may well be the reason we have this process of getting to the floor without markups in committee or subcommittee, without any chance on the floor to offer an amendment.

Let me explain why I say this is a very, very radical bill.

Under current law, beginning since the time of Roe v. Wade, there have been Federal laws that allow doctors, nurses and hospitals to refuse to perform abortion services because of their religious beliefs, and they still can get Federal funds for other services. Catholic doctors do not have to perform abortions. Catholic hospitals do not have to support abortion clinics. This permission for people to refuse because of their religious or moral objection is established already in the law and it is working smoothly, but this bill goes far beyond that.

This bill first and most obvious is not a bill about religion or conscience. While current law says that doctors and hospitals can exercise their religious or moral objections, this bill is not defined in that way. This bill would allow insurance companies and HMOs to ignore laws about patients' information and gag rules because they want to cut costs, because they want to reduce benefits or for no reason at all. Any HMO could gag its doctor, not because HMOs have a conscience, but because they would rather cut time with the patient from 9 minutes to 8. Any public hospital could decide that it would be easier if they did not have a protester out front. Further, this bill would allow the gag rule to govern for title X family planning grantees and this would reverse long-standing policy of providing nondirective information on all options.

Secondly, this bill is not just about doctors or even hospitals refusing to provide services. Those people are given permission to refuse under current law. This bill lets hospitals, insurance plans, HMOs and other corporate entities to gag their doctors and nurses from giving medically appropriate information to their patients. In other words, it would allow them to engage in what is medical malpractice, not giving the information their patients are entitled to receive.

We have tried to get a Patients' Bill of Rights enacted. We have had differences on the ability to sue to enforce those rights, but this bill instead provides a legal protection for a gag. It takes away patients' rights. This is a patients' bill of nonrights and having totally failed to enact the bill to protect patients' rights from the abuse of managed care, the majority is now moving to undo the efforts to those States who have enacted their own patient protection law.

That is the last point I want to make. It overrides State laws. It overrides the constitution in the State of Alaska where it says that a public hospital who is the only provider of services in the entire region must be available for legal abortion services. We should not overturn lightly the constitution of the State of Alaska. We are not here to regulate health insurance at the Federal level. That is what most of my Republican colleagues would object to, and yet they allow this to happen.

This is not a bill about religion. It is not about equal protection. It is the exact opposite, of guaranteeing constitutional rights to safe and legal abortions, family planning and medical privacy; and there is no Federal legitimate purpose here.

I would urge Members to oppose this bill and support the motion to recommit which will make this do what the authors say they want to do.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. VITTER).

Mr. VITTER. Mr. Speaker, I rise today in strong support of the Abortion Non-Discrimination Act, H.R. 4691. The bill before us is, in fact, a much-needed clarification of current law that was meant to provide full conscience protection to health entities, health providers who because of any moral convictions choose not to have anything to do with abortion; but unfortunately today, we will hear a lot of overblown rhetoric from the other side that the sky is falling, that this simple bill is something much more, when it is not, and arguments from people interestingly who say they are pro-choice, yet apparently when a hospital or a clinic or a provider, a doctor makes a choice, the right choice in my opinion, and chooses life, the other side is up in arms.

We have statements and they are documented from proabortion groups that they are actively engaged in a project to force all hospitals, often against their will or moral convictions, to provide abortions; and we know that the ACLU files lawsuits to force providers to perform abortions in States across the country, and sadly, sometimes activist courts find in their favor.

This really exposes the choice side for what they really believe in, which is not choice at all; and it flies in the face of all of their superficial choice rhetoric. It exposes the real proabortion agenda. Furthermore, it makes this commonsense legislation a necessary response from Congress whose intent in the original legislation was clearly to provide full conscience protection, and that intent clearly has been maligned in significant cases.

I want to thank and commend the gentleman from Louisiana (Mr. TAUZIN), the Committee on Energy and Commerce chairman, as well as the gentleman from Florida (Mr. BILIRAKIS), the subcommittee chairman, for their tremendous efforts in guiding this valuable legislation to the floor, and I urge adoption.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS), a member of the committee.

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

Mr. Speaker, I rise today not only as an elected representative but also as a public health nurse and as the former director of the Santa Barbara School District Teenage Parenting and Pregnancy Project.

I have firsthand experience with the struggles of many young women around the difficult subject of sex. I have dealt with teenagers trying to cope with the ramifications of bad decisions, and I have seen the terrible results when we turn our back and deny them help.

I am deeply troubled by this bill. I consider myself a religious person, and I hold in high respect the deep-seated values and feelings of Americans on the subject of productive health, but no one should have the authority to force his or her personal views upon others.

The Abortion Non-Discrimination Act does just that by overruling a State's rights to enforce laws and to design its own Medicaid program. This legislation is harmful to women. It would allow health care entities to refuse to comply with Federal, State and local laws pertaining to abortion services and referrals.

Under this measure, recipients of title X funds could defy current requirements that enable a woman to receive information upon request about all legal reproductive options.

□ 1300

Not only does this legislation deny women access to vital medical care, it is also unnecessary. Current law already protects the rights of individuals with religious or conscientious objection who may opt out of providing abortion-related services if they so choose; but institutions do not have the same rights as individuals, nor should they. Health care facilities exist to provide services. It should be rare when such a facility denies access to care to anyone. And all a health facility is required to do is to give a woman a referral upon request and to provide an abortion only if they choose in cases of rape or incest or when the life of the mother is in danger.

Mr. Speaker, it is clear that existing law gives sufficient deference to moral objections. Enacting broader conscience or refusal clauses for health entities only leaves women without medical services that they have a constitutional right to.

For decades women have fought to gain access to the reproductive health

services that they need. Last year alone, title X services enabled women to avoid 1 million unintended pregnancies, nearly half of which would have ended in abortion.

This bill would reverse these proven success rates. In fact, this bill is so confusing, it does not even define what an abortion is. And so I respectfully ask the honorable gentleman from Florida (Mr. BILIRAKIS) to explain. Is emergency contraception an abortion? How about oral contraceptives? How about condoms or even advice on where to get this information?

Before we vote, I respectfully ask the gentleman from Florida (Mr. BILIRAKIS) to define what constitutes an abortion.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such additional time as I might require.

I guess I have to continue to respond to statements made by the gentleman from Ohio (Mr. BROWN), my good friend and the ranking member of my subcommittee, when he talks about prescription drugs. The bill was not written by the drug companies. If the drug companies had anything to do with the bill, I certainly did not know about it; and I played a large part in that.

I am talking about a prescription drug bill for seniors now. The bill as it was written was not perfect, but it consisted of $50 billion more than the minority had placed in their budget and intended to write a bill in the previous Congress. So it is more expensive than the bill that they came up with previously. The bill would help the poor to a very large extent. It would help the very sick to a tremendous extent, and it would help an awful lot of people in between; and it is unfortunate that politics is being played with a piece of legislation which is far from perfect, which is not something that we all would like to see ultimately take place but something that would help people at this point in time.

I would go on, Mr. Speaker, and I would like to read from additional views of Senators Coats, GREGG, FRIST, DEWINE, MCCONNELL, and HUTCHINSON in 1998 during the debate.

PARLIAMENTARY INQUIRY

Mr. BILIRAKIS. Mr. Speaker, is that permissible for me to read?

The SPEAKER pro tempore (Mr. THORNBERRY). Does the gentleman state a parliamentary inquiry?

Mr. BILIRAKIS. I guess I am. I noticed the Parliamentarian stood up.

The SPEAKER pro tempore. The Chair would inquire is it related to proceedings regarding the legislative history on the bill the House is considering?

Mr. BILIRAKIS. It is definitely related to it.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. BILIRAKIS. In any case, this took place during the Health Professions Education Partnerships Act of 1998, and the additional views said Congress explained that the term ''health care entity'' includes an individual physician, a post-graduate physician training program, and a participant in a program of training in the health professions, 42 U.S.C. 238n(c)(2)(1996).

They went on to say, and I read verbatim, and this is significant, Mr. Speaker, because of claims made by the other side that this is an expansion of what was intended at that point in time: ''We believe that the term 'health care entity' in 42 U.S.C. 238n was intended to be read in the straightforward manner of 'including' not only the specific entities mentioned but also those which are routinely seen as health care entities in common usage and other Federal laws, such as a hospital, provider sponsored entity, health maintenance organization, health plan, or any other type of health . . . entities generally seen as 'health care entities' under Federal law. We intend to explore other means of definitively resolving this question of legislative intent.'' And that was signed by the Senators that I mentioned earlier.

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

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

The gentleman from Florida (Mr. BILIRAKIS), my friend, said that the drug companies did not write the drug bill that this House in a partisan vote passed. I guess we are all mistaken, but I would like to recount for a moment how this drug legislation passed this House of Representatives.

Back in June we worked on a markup on a bill that the drug companies were totally in support of. There was a fundraiser that had been scheduled for one evening. We stopped the markup so that Republicans could troop off to the fundraiser with the President and the Vice President which raised $30 million, $3 million of it from drug companies. The sponsor of the fundraiser, the chairman of it, was the CEO of a British drug company, GlaxoSmithKline, which gave $300,000 to the Republican campaign coffers.

The next day we came back, passed a bill, defeated every amendment on a partisan vote that was a proconsumer, prosenior amendment. The bill then passed in a partisan vote. It passed the House in a partisan vote.

And then in the most cynical move I have seen in 10 years in Congress, the drug companies spent literally millions of dollars advertising on television, thanking the Republicans for passing their drug bill. The only thing was, Mr. Speaker, they did not say ''paid for by'' Pfizer or Merck or Eli Lilly or Pharmacia or Glaxo. They said paid for by United Seniors Association or paid for by 60 Plus. So the drug companies spent millions of dollars thanking the Republicans, but they used a front group to make it look like it was a senior organization or actually two senior organizations thanking the Republicans.

If the public only knew that all those ads were paid for by the drug industry, then Republican Members of Congress would not be getting calls thanking them for voting for it. They would be getting calls saying go back to Washington and pass a drug bill that actually helps seniors, that actually helps consumers, that does not help the drug industry continue to be the most profitable industry in America, continue to be in a situation where they pay the lowest tax rate of any industry in America. And I think people in this country have had enough and we are going to find a little more about that come November.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership on this issue and so many issues important to the health of all Americans.

Mr. Speaker, I rise today in very strong opposition to this politically motivated anti-woman bill. How could we as representatives of the people lawfully permit health care providers to really ignore the Constitution and the Supreme Court?

Let us be clear. H.R. 4691 radically alters current law and could gag health care providers from giving women, who may face an unintended pregnancy, including rape and incest, all of her legal medical options.

This is really a domestic version of the global gag rule which really should be repealed. This bill would muzzle health care providers who participate in the title X program by eliminating providers' options which enable women to receive information upon request, just upon request, about all of their available medical options.

In the absence of a referral requirement, health care providers may be able to effectively gag health care practitioners from giving such referrals to women who request them. This bill is really outrageous. It is simply another in the long parade of bad bills the majority continues to schedule in order to promote their political ideology and their political message while avoiding and refusing to schedule the real work of the House.

Mr. Speaker, where is the Labor-HHS appropriations bill? Why are we not working on that today instead of considering legislation that amounts to nothing more than a dangerous assault on women's reproductive rights? We should be funding the important health programs in the Labor-HHS bill. I urge Members to vote ''yes'' on the motion to recommit and ''no'' on this very bad bill.

Mrs. CAPPS. Mr. Speaker, will the gentlewoman yield?

Ms. LEE. I yield to the gentlewoman from California.

Mrs. CAPPS. Mr. Speaker, I request from the gentleman from Florida (Chairman BILIRAKIS) a definition of the term ''abortion.'' As we prepare to vote on this very important legislation, could the gentleman help us

frame what we are voting about? Are we voting about a surgical procedure? Are we voting about emergency contraception? Does an abortion constitute oral contraception or condoms?

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

Ms. LEE. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, I would advise the gentlewoman, this is not about abortion. This is about freedom. This is what has been said before, and said over again. That is why I read the statement I just read, basically giving people the moral rights to make their decisions. That is what it is all about.

I am not going to give the gentlewoman a definition for abortion or anything of that nature. It is not pertinent to this legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, my esteemed colleague on the other side said existing laws protects only religiously affiliated health care providers from forced involvement in abortion and that this bill expands that. That is absolutely false. H.R. 4691 does not expand the law at all on this point. Existing law protects secular as well as religious providers.

H.R. 4691 clarifies the definition of health care entity in this law so it clearly covers nurses as well as physicians, hospitals, as well as training programs in hospitals. This charge of expanding the law beyond religious to secular entities I think is a red herring.

About title X, compromising the ability of title X clients to obtain information critical to their health, I think that is false. Nothing in H.R. 4691 limits Federal or State agency's abilities to require the provision of accurate information about abortion or abortion providers.

Under H.R. 4691, government may not penalize a private health care entity for declining to provide or make arrangements for abortions. States should not be able to force people or hospitals to be involved in an abortion, especially when they try to base the right to coerce on the fact that medical institutions receive Federal funding.

Conscience protection is a civil right. The Federal Government has the right and the duty to protect conscience by making sure that any entity that receives Federal funding does not discriminate against any person or organization just because they do not want to be involved in an abortion. I might say that 46 States in our country presently have conscience protection laws.

I might quote from the American Medical Association. They say: ''Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles.''

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 30 seconds.

The other side of the aisle has repeatedly quoted the American Medical Association. Members need to understand they have taken no position on this bill. They are not in support of it. They have not taken a position either way.

However, the American College of Obstetricians and Gynecologists have asked for a ''no'' vote on this bill because they really understand this issue better than anyone. They know this bill is not a minor change in Federal law, but a broad-reaching change that denies information and access to women, even women whose health is in jeopardy or women who have been raped or are victims of incest.

Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, in the prior exchange, the failure of the gentleman from Florida (Mr. BILIRAKIS) to indicate what an abortion is was an important concession because in effect it says an abortion is anything that a provider says it is. It makes this legislation completely untenable.

What we are witnessing is the umpteenth attempt of the Republicans to invade Roe v. Wade. I have to give the majority credit, though; the majority is determined to deny a woman the right to control her own body by any means necessary. That is why they keep coming to the floor with these provisions.

□ 1315

Yes, this bill is about discrimination, discrimination against women and discrimination against the States. They wrap themselves in a conscience clause cloak. We could never have gotten this far if we did not have ironclad conscience clause protection in our law.

I have got two great Catholic universities in my district, Georgetown University, with which I am personally associated as a tenured law professor, and Catholic University. Georgetown University Provident Hospital does not have the slightest doubt that they and their health care services already are strenuously covered by the existing conscience clause.

This is not a conscience clause. This is a cop-out clause. What it does essentially is to open the floodgates. The first to take advantage of this clause are going to be the health care plans and the HMOs. These are the guys who are already saying to physicians, we're timing you on how much time you can spend with patients urgently in need of health care. Do you think they are going to continue to give informed consent by providing the kind of counseling that Federal law provides? They know a loophole when they see one.

We have already closed every Federal door to a woman's right to choose with a Hyde amendment and with a plethora of other provisions. Now we have gone to the next level. We are invading States rights and the rights of the States to provide health care by changing Federal law to invade State territory. Ever since Roe, we have said not with Federal dollars. Now we are telling the States what to do with their dollars and what to do with their laws.

Let the States' rights Republicans take a page out of their own prayer book. Stand down. Let the States run their own State health care systems.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume to read from the American Medical Association Code of Ethics, H–5.995, on abortion. It goes on to say, ''Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles. In these circumstances, good medical practice requires only that the physician or other professional withdraw from the case, so long as the withdrawal is consistent with good medical practice.''

That is the gist of this piece of legislation, intending to clarify what was intended back in 1996. I have not looked up who voted for that bill or who voted against it, but the fact of the matter is that is the bottom line of what we are trying to accomplish today.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. I thank my good friend for yielding time. I want to compliment him on his leadership as well as his courage in offering this bill today.

Mr. Speaker, a moment ago, the gentlewoman from the District of Columbia talked about this being the umpteenth time that we have dealt with the abortion issue. Frankly, I am very proud of the fact that prolifers have refused to roll over, those of us who have a moral and a conscientious objection to the killing of unborn children and the injuring of their mothers, do whatever we can, whenever we can to preserve at least some of the lives who otherwise would be destroyed by the violence of abortion.

Let us not forget what we are talking about. Abortion either dismembers unborn children or it chemically poisons unborn children and it does it in a horrific way. It is a painful, violent death imposed upon children and it also is injurious to mothers, especially in a psychological way and in long-lasting physical ways. What we are dealing with today, Mr. Speaker, is conscience protection for hospitals and those institutions that protect and preserve and nurture life so that they will not be coerced into performing abortions or referring for abortions.

I would remind my colleagues that OLYMPIA SNOWE, who is not a pro-lifer, said when this was up in 1996 that an institution or an individual who does not want to perform an abortion should not be compelled to do so in a way that is contrary to their beliefs. Unfortunately, while the intent of the legislation signed by the President in 1996 was clear, the language apparently was not, or at least in the eyes of some, and

some courts and some attorneys general have been trying to compel health organizations, hospitals, to be involved in abortions.

Some courts and pro-abortion groups are so extreme that they want to force hospitals to do abortions against their will. The whole board of directors, the hospital staff could say we will not participate in this anti-life child battering enterprise but they could be compelled by a State or by some court to do so absent the enactment of this legislation.

In my own home State of New Jersey, Elizabeth General Medical Center agreed to consolidate with St. Elizabeth's Hospital and no longer perform abortions. Subsequently a New Jersey Superior Court judge reviewing the consolidation issued an outrageous judgment that brought the pro-abortion organizations into the equation and approved a settlement to place $2 million in a trust for the performance of abortions and abortion referrals. In other words, they got money from the pro-lifers to enable the killing of unborn children.

This debate is all about human rights, I say to my friends, about child violence. We can mask it, we can sanitize it and we do. We do it quite well. We are Members of Congress. We are politicians. But the fact of the matter is that killing unborn children is violence against children, and dismemberment and chemical poisoning in no way can be construed to be a benign act. It kills babies. Look at the ultrasounds and the great progress that has been made in refining ultrasounds. Today you can see a baby in great detail before birth. The abortionist looks at that same reality—that same baby and kills that baby. I think it is to their credit that 86 percent of all the hospitals in America are all about lifesaving and nurturing and healing—they refuse to do abortions. They are not about killing babies. They are not about putting poisons into their amniotic sacs in order to procure a baby's death. They are not about dismembering the arms and the legs and the torso and the head—decapitation is commonplace in the abortion mills all over America, with 42 to 43 million dead babies and counting a horrific loss of life.

Now we see the abortion lobby, and NARAL makes it very clear, they have a plan when there are consolidations to make sure that these hospitals who are now pro-life, whether they are religiously affiliated or not, to provide abortions. NARAL says it very clearly on one of their websites and we know that this is part of an aggresive strategy, to expand abortions where they are absolutely not wanted. Babies are precious. Their mothers are precious. Let us promote lifesaving, nonviolent alternatives to abortion, not the enabling and the killing of babies.

Someday every Member who has been voting for abortion will rue the day. They will wake up in the middle of the night and say, how could I? Just like looking back in antiquity we look back and say how could people like Washington and Jefferson and others have had slaves? There was a blind spot then. There is a blind spot today. Abortion is violence against children. Brown enables it and expands it. Vote for the Bilirakis bill and against the Brown motion to recommit.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 1 minute.

Of course we are not telling hospitals and doctors to provide abortions. We have already settled that issue. No doctor, no hospital should be forced to do that. We are just saying that a woman who has been raped or a woman who has been a victim of incest, whose life because of the pregnancy might be in danger, who comes to a hospital, comes to any hospital, should be given access to information, should be referred, should be told where she might be able to get counseling or might be able to get help. That is all that we are saying, that we know this legislation takes that right away.

Again, think about that. Imagine, a woman who has been raped, a woman who has been a victim of incest, who is pregnant, whose life may be in danger from that pregnancy gets turned away from a hospital under this legislation, gets turned away from a hospital, nobody will talk to her because this rigid, far-right agenda of the Republican Party says we are against abortion and we make no exceptions for rape, we make no exceptions for incest, we make no exceptions for the health of the mother.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

(Ms. MILLENDER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman from Ohio in his efforts to try to bring some sanity to this bill.

I would like to ask the gentleman from Florida (Mr. BILIRAKIS), it seems to me that it is a moral obligation to ensure that information regarding the reproductive rights of women be given to her. And is it not true that institutions cannot restrict providers from offering medically appropriate information and services? Can you answer that for me?

Mr. BILIRAKIS. The only answer I will give the gentlewoman is that this is not intended to be an expansion on what is already law. We are trying to clarify as a result of court action that has taken place regarding the legislation that now exists.

Ms. MILLENDER-MCDONALD. So this bill then has an opt-out of performing any abortion services, including counseling or referral? Does this bill do that? It opts out performing any abortion services, counseling or referral?

Mr. BILIRAKIS. It is not intended to do that, nor does the bill say that.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). All Members will suspend.

The Chair would remind all Members to direct their remarks to the Chair and if they seek to yield time, to formally yield time to other Members and then that time can be yielded back.

Ms. MILLENDER-MCDONALD. I thank the Speaker very much for that.

I again just cannot believe that we are here today to speak about yet another assault on women's fundamental rights to be informed regarding all of her reproductive rights. Just over 2 months ago, we were here again advocating against the passage of legislation banning another aspect of a woman's reproductive choice. Today we stand again to defend a woman's basic rights to be informed of her options with regards to her reproductive health when she is most vulnerable. As we have mentioned and stated, it is not our mission to dictate the most personal choice any woman can ever make regarding her health. We are here to pass fair, effective legislation that will guarantee all women the opportunity to make the best possible decisions about her health. Besides, infringing on a woman's right to decide what is best for her health as in the case of H.R. 4691 will undermine States' rights to enforce their own constitutional protections. This sets a dangerous precedent, Mr. Speaker, if we begin to violate the principles of Federal law by essentially overruling State constitutions. We should not attempt to block Federal title X guidelines that allow women full access to information with regard to their reproductive health choices.

If this piece of legislation passes, H.R. 4691, we would prevent the Federal Government from enforcing its own requirement with reference to title X-funded clinics that refer patients to abortion providers upon request. Further, passage of H.R. 4691 would prevent States from following the Hyde amendment which mandates that Medicaid patients be informed about legal abortion services in the event of rape, incest or a pregnancy that threatens a woman's life.

I say, let us defeat this bill that does not give women their reproductive choices.

Mr. BILIRAKIS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. I want to rise in strong support of this bill and reiterate some of the points that I made in my comments in the debate on the rule. This bill has been characterized by its opponents as an assault on their side of the issue, the pro-abortion or pro-choice side. I would argue very, very strongly that that is very much not the case. The law as I interpret it is very, very clear. It seeks to clarify the conscience clause that was enacted by this body

and signed into law by the President of the United States, William Jefferson Clinton, in 1996. This dispute arose over a disagreement surrounding a requirement that physicians in training, residents, be forced to learn how to do abortions to get their accreditation and get their license to practice obstetrics and gynecology when in fact they were personally opposed to doing abortions. For most Members of the House, that was a no-brainer. If you are pro-life, why should we the government have laws and regulations that would force a physician in training to have to learn to do a procedure that they find morally and ethically repugnant?

Under the provisions of the law, and I have a copy of the law right here, we encompassed it to include health care entities. I interpreted that at the time, I was here, I voted for it, that it would also include some obvious health care entities like hospitals and HMOs.

□ 1330

But under the aggressive attempt on the part of the pro-choice community to expand the availability of abortion procedures in America, they have used the courts, which has always been their traditional tool to advance their agenda, to expand or redefine the law such that a hospital or an HMO is not a health care entity.

What we seek to do in this statute is to just clarify that act. To define us as engaging in this great assault on Row v. Wade, when really what we are trying to do is protect freedom of conscience or freedom of choice, to me, is just not an accurate interpretation of it.

As far as some of these claims and assertions that we will prevent people from being counseled, if you look at the language, it is very, very clear. If any health care entity voluntarily elects not only to train people to do abortions, but as well to perform them, or refer for an abortion, that is not infringed by this act.

I want to clarify another very, very important thing, I know this is a very sensitive issue for a lot of Members in the body, and this is this debate about contraception.

There have been people who have come to this floor today and tried to assert that the language in this bill would bar the provision of contraception services in many institutions that are already providing it. Please show me in the statute where you find that interpretation. I think it could be described as a tremendous misinterpretation or a tremendous stretch of the imagination.

The provision of contraceptive services has never been defined as abortion in Federal statute, nor has emergency contraception, what has commonly been interpreted as the morning-after pill. Now, some religious groups may interpret that as abortion, but we make no reference in this statute to religious groups or their definitions; and under the current FDA policy that is considered contraception, and it is not affected at all by this statute.

This law, in my opinion, represents a very clear attempt to prevent what I consider to be the extreme agenda of the pro-abortion community to try to advance what they want to do.

We have had many people come down to the floor quoting from a NARAL Web site about their agenda, which is to force many institutions, and 85 percent of hospitals in America today do not provide abortion services, to force them to do that, using current Federal laws and statutes.

Mr. Speaker, this piece of legislation, I think, is very clear. It is not ambiguous. Its intent is to protect the freedom of these institutions to not engage in this procedure.

I ask Members to support this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this bill. I think a dose of reality may be helpful in this debate.

The extremist pro-abortion, pro-choice forces want women to have their constitutional rights. The people who have gotten 85 percent of the hospitals in this country not to be willing to provide an abortion to a woman who requests it want to deny, to make it impossible, for women to exercise what the Supreme Court says is their constitutional right. That is the crux of the debate.

Let us have a dose of reality.

Fact one: this bill has never been considered by any committee of this House, not in hearings, not in markup, not ever. A cynical person might view it as a crass attempt to pander to an extremist constituency on the eve of an election, especially since we know it is dead on arrival in the Senate. But you do not have to be cynical to know that this bill needs to be looked at more carefully, at the very least. Every Member should make up for the negligence of the committees of jurisdiction in not considering this bill by reading the fine print and not listening only to the rhetoric.

Fact two: this bill, despite its lofty title, is not about discrimination. It would cancel out every State law protecting a woman's right to choice and the right of every American to demand health care coverage that meets her medical needs. This Congress has failed to act on prescription drug coverage. This Congress has killed any hope of universal health care coverage. Now the Republican leadership of the House wants to help the for-profit health care industry rob our constituents of medical services to which they have a constitutional right.

Fact three: this bill is not about religious liberty or conscience. Read the bill. Copies of it are sitting on the table just outside the Chamber. The bill covers any hospital, any HMO, any insurer, any facility, any organization, any plan, even if they are for-profit, even if they do not have religious or moral objections to an abortion. I am not aware that HMOs or insurance companies have religious consciences, even if they just want to save a little money at the expense of our constituents.

Fact four: nearly every State protects the right of any individual who objects on moral or religious grounds to performing abortions. So that issue is a red herring. It does not need further discussion. The States protect that right already.

Fact five: There is a domestic terrorist movement that uses violence, murder, bombings and harassment to undermine the ability of women to go to the doctor and receive constitutionally protected health care services. Many medical facilities have knuckled under to this wave of domestic terrorism and simply stopped providing those services. This bill rewards those terrorists.

Fact six: This bill is not limited to the actual performance of abortions. It would also apply to laws that require health care providers to supply women with basic information so that they can make informed decisions about their health care options, exercising their consciences. The consciences that are being violated by this bill are the consciences of women who may want to choose to avail themselves of their constitutional right to choose to have an abortion. This bill would also apply to some forms of birth control.

Let us be clear, this bill is not about religious freedom or protecting the right of conscience. That is already protected by law. This bill is simply an attempt to make it harder for women to obtain an abortion, to vital health care services. If this Congress is unable expand access to health care, the least Members can do is vote not to restrict it further.

Mr. BILIRAKIS. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, at least the pro-abortion forces are being very clear about what their position is. They now want to force people who disagree with their position to perform abortions, to counsel for abortions, to pay for abortion through insurance laws.

We have things in the United States called voluntary associations, and if voluntary associations want to form an insurance company that may or may not cover different things, apparently they can cover about anything, unless it is a moral view. In fact, my friend, the gentleman from New York, should know that the Catholic hospitals of the City of New York have in fact formed an HMO. There are many religious institutions in this country and many religious people who have bonded together to form health insurance of all different types.

We should have a right, those of us, regardless of what the Court says,

those of us who have a moral view that abortion is murder, should not be forced to counsel, pay for or fund that murder.

It is one thing to say we are going to deprive someone else of their human right to what I believe is to take another human life, and I believe the right to life is preeminent and I believe the Court decision was wrong, but even if you agree with that Court decision, why would you force me, who believes that the taking of these innocent little babies is an abominable sin, why would you force me to say I cannot have insurance coverage that does not pay for that?

I cannot fund a hospital or participate in caring for the poor and caring for people who need health care unless I will also fund what I find to be as abominable as the killing of innocent little babies? Why deprive me of my rights? Why deprive me of my rights of association? Why deprive those people who are not necessarily a majority, we are evenly divided in this country, but why deprive the people who believe it is morally wrong of their right to not fund it, to not counsel it?

There are alternatives. If there are all these people who favor abortion, if there are all these people who support abortion and all these abortions, there are plenty of options for them. Why make me and the people who find this abominable have to pay for this?

The reason this law is needed is in fact the courts in several States have challenged the HMO laws, the hospital laws; and we need this legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I repeat, I have seen one Republican man after another Republican man after another Republican man come down to the House floor and insist that we are forcing physicians and hospitals to perform abortions that in good conscience they do not want to perform.

That is not part of the issue. That issue is solved. No one will have to perform abortions. We do not think people should have to perform abortions, doctors or hospitals, if they do not choose to. That issue is settled.

For them to continue to put up that straw man, for them to continue to use that red herring, is intellectually dishonest, and their far right, no exceptions for rape and incest, far right agenda, they know that; and they should just be a little more honest with the American public.

Now, what is wrong with this whole debate today? First of all, what is first wrong with the debate is we are talking again about a health issue that we really should not be talking about, and we are not acting on prescription drug legislation. We are doing nothing in this Congress to try to lower the cost of prescription drugs.

The second thing that is wrong with this debate is this bill is on the House floor today having bypassed the committee structure. With all the disagreements on what people think about this bill and all the interpretations, it should have been in committee. My friends on the other side of the aisle know that we should have discussed it in committees, we should have had a markup, we should have been able to figure out all these questions.

Third, my friends on the other side of the aisle always talk about States' rights, we should respect what the States do. This legislation overrides States' rights. They are for States' rights, unless they do not like what the States do, then we are going to override States' rights.

Four, as the gentleman from New York (Mr. NADLER) said, as an example, a for-profit health maintenance organization having nothing to do with religion, a for-profit health maintenance organization can simply refuse counseling services to a woman who has been a victim of rape or incest, for example, can refuse it just to save money.

Now, insurance companies, will they do that? These are the same insurance companies that cover Viagra in many, many cases, in most insurance companies; but they do not cover contraceptives for women, which is one of the biggest expenses that women of childbearing age face.

So, sure, some HMOs are going to do that. To save money, they are going to refuse counseling to a woman that might be a victim of rape or incest whose health might be in jeopardy.

Again, Mr. Speaker, there is no allowance in this legislation for rape, there is no allowance for incest, there is no allowance for protecting the life and the health of the woman. I know that fits the far right Republican agenda. They want no abortions in this country, they want no exceptions for rape, no exceptions for incest, no exceptions for the life and health of the woman. That is why this legislation is on the floor today, in order to fulfill that agenda and play to that far right base of the Republican Party.

But, frankly, where I come from, Mr. Speaker, there are differences of opinion on abortion. Some say we should allow them; some say we should not. But almost everybody I know thinks that when a woman has been a victim of rape or incest, and particularly if her life is in danger, almost everybody I know thinks that woman should be entitled to make that choice if she chooses.

That is why this legislation is a bad idea, Mr. Speaker. That is why this Congress should oppose this legislation.

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

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

Mr. Speaker, the ranking member knows that we have had a hearing on this issue in committee; and as far as the consistency regarding States' rights, I dare say that both parties over the years have been far from consistent on that particular issue.

Mr. Speaker, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. I thank the gentleman for yielding, particularly because I am rising in opposition to this legislation.

Mr. Speaker, claims that this bill is a clarification of existing law is just incorrect. The act would be a sweeping new Federal exemption from current laws and regulations that assure women access to health services.

I think it is very important to acknowledge that no Federal law requires any health care entity to provide abortion services. Furthermore, there is no requirement that any individual participate in the provision of reproductive health services.

Currently, title X, Family Planning Programs require that clinic staff give their clients the information and referrals for all their legal options upon their request, adoption, carrying to term, abortion; and this legislation would override that existing Federal law, and it would deny pregnant women all the information that they should have about their options.

Also the opt-out for Medicaid coverage, currently the Hyde amendment to the Medicaid program stipulation that Medicaid clients must have access to those services in case of rape, incest or where the pregnancy endangers a woman's life.

Just remember, this is not a mirror of current law; this is absolutely aborting the State and Federal laws.

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Mr. BILIRAKIS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I just want to introduce for point of clarification, there have been statements made about how this is not an issue that should apply to health care plans or insurance companies, and I just want to state the case of Fidelis Health Care of New York. This is a Catholic archdiocese of New York cooperative managed health care plan. Immediately after it was started, Family Planning Advocates of New York, FPA they are called; they are an affiliate of Planned Parenthood International, pursued aggressive action against this HMO. They have called upon the State Health Department to ''increase its monitoring of Fidelis informational and referral processes concerning reproductive health care,'' and they are supporting legislation in the New York legislature to force them to provide abortion counseling.

So what we are talking about is we have a Catholic doctor in a Catholic hospital with a Catholic nurse, all of them are pro-life, and these people are wanting to go in there and use the force of government to say you have to do this.

Mr. BILIRAKIS. Mr. Speaker, I yield myself the remaining time.

Just to finish up, I have already quoted from the ethics portion of the American Medical Association. The American Hospital Association has stated that ''A health care institution should, based on its assessment of its mission, be able to choose whether or not to perform abortions.''

The Association of American Physicians and Surgeons says, ''The Federal Government should not discriminate against medical professionals or medical institutions that follow the dictates of conscience or medical judgment.''

The American Nurses Association: ''Where nurses are placed in situations of compromise that exceed acceptable moral limits or involve violations of the moral standards of the profession, whether in direct patient care or any other form of nursing practice, they may express their conscientious objection to participation.''

All this legislation is trying to do is be consistent with all of that, and we are giving the choice and the freedom to those who have a problem with performing these types of procedures.

Mr. PICKERING. Mr. Speaker, I come from a rural community that prides itself in its values and the ability to express those values. Our local health care providers work tirelessly to improve the quality of life and care for the small towns and communities they serve.

It is important to note that many of our rural states and rural health providers have no choice than to rely on public aid for supplying care. We must not limit their ability to serve their communities. We should give them the decision making power that will enable them to better serve their areas while protecting them from discrimination in the law.

Because I believe that it is our local communities that better understand the needs of the people, I strongly support the passage of H.R. 4691, the ''Abortion Non-Discrimination Act of 2002.''

This bill will provide the necessary protection to health care professionals as they strive to provide quality care to the people they serve.

Mr. SHUSTER. Mr. Speaker, I rise today in support of H.R. 4691, the Abortion Non-Discrimination Act. This legislation simply clarifies current law. In 1996, Congress passed and then President Clinton signed into law the existing nondiscrimination statute which protects ''health care entities'' from being forced by the government to perform abortions. The purpose of the legislation before us today is to clarify that ''health care entities'' includes all health care organizations, including hospitals.

This bill, despite all the rhetoric we hear from the other side, will not prevent women from obtaining abortions. What this bill does do is say to our hospitals and healthcare personnel that the government will not force them to perform a procedure that is in conflict with their personal moral beliefs. I think it is important to note that most hospitals in this Nation will not even get involved in abortion. That is largely due to the fact the basic function of a hospital is to preserve life not to take it.

I, like many across this Nation, believe that abortion is wrong. Life is a sacred gift from our Creator which should be protected. This, however, is not an abortion debate. This is a debate about allowing individuals to exercise their moral conscience. I cannot believe that there is a single person in this body who would say that we should force someone to perform a procedure that goes against every fiber of their moral and ethical being. It is in this vein, Mr. Chairman, that I urge passage of H.R. 4691.

Mr. FARR of California. Mr. Speaker, I would like to take this opportunity to voice my opposition to H.R. 4691, The Abortion Non-Discrimination Act, which would radically broaden the ability of any health-care entity to refuse to comply with federal, state, or local law that pertains to abortion. These health-care entities include hospitals, insurance companies, HMO's, and any other similar company; all of which would suddenly have the power to decide at will to override the existing federal provisions in Title X and Medicaid that ensure that all women have access to health information and services.

These entities would have free reign to refuse to provide or pay for abortion services, counseling regarding abortion, and referrals to other providers. In addition, hospitals would have the right to turn away women who are in need of emergency abortions as a life-saving procedure.

The State of California has worked hard to establish laws that protect the right of women to make fully informed medical choices, but H.R. 4691 would threaten these valuable laws that protect a woman's right to choose. These changes would create confusion and chaos regarding what services are available, therefore threatening the women's ability to seek and obtain health care.

The provisions encompassed in H.R. 4691 dramatically endanger women's right to quality, non-judgmental health care, and stand in direct contrast to California's efforts to protect access to information and reproductive services. I urge my fellow members to vote against this dangerous legislation.

Mr. BENTSEN. Mr. Speaker, I rise today in strong opposition to H.R. 4691, the Abortion Non-Discrimination Act. This deceptively-titled bill is not aimed at ending discrimination but rather at denying critical reproductive services to women across the nation.

This provision would allow health care entities to exempt themselves from existing state and federal laws that ensure access to a number of reproductive services vital to women's health. Supporters claim that the bill is intended to protect the religious and moral beliefs of doctors and health care providers. However, given the broadness of the bill, I must conclude that the underlying intent is to deprive patients of abortion services, coverage, and information regarding their reproductive rights.

Mr. Speaker, with this legislation, Congress risks trampling on state's rights to formulate their own Medicaid policies or use their own funding to ensure a woman's ability to make an informed decision regarding her own health. Under current law, health care providers are only required to supply abortion services to Medicaid patients in cases of rape, incest, or jeopardy of the mother's health. H.R. 4691 would undermine this narrow provision by allowing health care providers to determine what they will and will not do with federal government dollars.

Furthermore, under H.R. 4691, individual states could no longer require that a woman be referred or even advised of her options with regard to abortion and reproductive choices. If this law is passed, Title X funded entities can refuse to simply talk about abortion with patients because requiring them to do so is considered ''discrimination.'' The fact of the matter is that this law discriminates against women everywhere by denying them adequate information and the opportunity to make their own choices.

Supporters of this legislation say they want to preserve freedom of conscience, but they seek to strip from female patients their freedom of choice articulated in Roe v. Wade and the freedom of states to enact policies that ensure all women receive comprehensive information on their options.

Mr. Speaker, I urge my colleagues to vote against depriving women of crucial reproductive information; against limiting state's rights to build their own Medicaid framework; against this unacceptable legislation.

Mr. STARK. Mr. Speaker, I rise today in opposition to the misnamed Abortion Non-Discrimination Act. It should really be entitled the First Step Toward Outlawing Abortion Act. At a time when my own state of California is leading the nation in enacting the most progressive laws protecting a woman's right to choose, Republicans in Congress continue to lead their ill-conceived, extremist crusade to stamp out this fundamental freedom.

The Republicans claim that their bill is simply a clarification of existing law. They are wrong. Passage of this legislation would undermine the sensible requirement that pregnant women be given a full explanation of their medical options regarding their pregnancy. Supporters of H.R. 4961 are not trying to clarify the law today, they are trying to inch us closer and closer—through every legislative vehicle they can find—toward a time when abortions are outlawed.

If this bill becomes law, pregnant women that go to a doctor, hospital, clinic, or other health care provider opposed to abortion may well leave without a full understanding of their medical options. Not only is it wrong to deny patients a full disclosure of their medical options, it is unethical and fundamentally un-American.

If this bill becomes law, the federal government will directly interfere with every state's right to structure their Medicaid programs in the way they deem most appropriate. Current law already prohibits Medicaid programs from performing abortions except in strictly limited circumstances. This bill would go even further by overriding the ability of states to ensure that women treated by Medicaid providers are at least told of their full medical options, even if they can't get financial assistance to access those services.

If this bill becomes law, family planning clinics across the country that are funded through the Title X program would no longer be required to give a pregnant woman information about all her medical options. In fact, they could withhold such information even in cases of rape or incest where the option of an abortion may be most appropriate for the woman involved.

Existing law contains a conscience clause protection that assures that providers opposed to abortion do not have to provide them. Therefore, there is no need for this legislation.

This bill goes so far as to grant providers who are opposed to abortion the leeway to deny informing their patients of what may be a needed medical option. It's not sensible medicine, nor is it appropriate public health policy. There is absolutely no valid reason that this bill should be enacted.

I urge my colleagues to join with me in opposition to H.R. 4961 and to stand firm in our commitment that women must be provided all of the medical options so that they can make informed, personal decisions about their pregnancies.

Mr. BLUMENAUER. Mr. Speaker, I strongly oppose H.R. 4691 and urge my colleagues who care about women's health, states' rights and the legislative process to vote against this measure. Not only is the underlying bill objectionable, but the House Republican Leadership has forced this bill to the floor without any committee consideration or the possibility for amendments.

This bill puts the health and well-being of American families at risk by permitting any hospitals, health-insurance corporation or HMO to exempt itself from any federal, state, or local law that guarantees women access to abortion services. The language of this bill not only applies to the provision of legal abortion services, but also to the important responsibilities of counseling, payment and referral to other providers. Abortion is a legal medical procedure and women, regardless of whether their hospital or HMO provides actual abortion services, have a right to information about their medical options.

My anti-choice colleagues will make many false claims today on the floor, but the reality is that the federal government is not forcing hospitals or doctors to perform abortions against their will, the American public does not support this type of legislation and this bill is not a mere ''clarification'' of current law.

The bottom line is that health-care organizations should not be allowed to gag medical providers; women should not be denied necessary and appropriate medical information or services; and Congress should not supersede a state's right to create and enforce its own laws.

I will support the motion to recommit so that we can send this bill back to committee and better address its major flaws.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support for H.R. 4691, the Abortion Non-Discrimination Act. This is a bill that should be strongly supported by pro-lifers and pro-choicers alike. For it simply clarifies current law to ensure that no health care provider is forced to perform abortions against its will. This body overwhelmingly supported this view in 1996 and President Clinton even signed it into law because we all agreed that those opposed to abortion on religious or moral grounds should not be forced by the government to compromise their beliefs.

This debate is not just about abortion, however, it is about health care and access to health care. If states or the federal government are allowed to discriminate against Catholic hospitals or community health centers that do not wish to provide abortion services, it will have drastic effects. Catholic hospitals and community health centers are the backbone of our health care system and serve those most in need. They already struggle financially for they treat every patient regardless of ability to pay. To withhold much needed funds just because they refuse to perform a service that they are fundamentally opposed to is abominable and will only hurt low-income Americans.

One of the fundamental principles of our nation is that the government cannot impose religious or philosophical beliefs upon its citizens. We have a rich society of different cultures and beliefs. It is un-American and unconscionable to force health care providers to perform abortions that they believe are morally wrong. Join me in voting in favor of this important legislation to ensure that no American is forced to performed abortions against their will.

Mr. TERRY, Mr. Speaker, I rise today in strong support of H.R. 4691, the Abortion Non-Discrimination Act.

In 1996, Congress enacted a law prohibiting discrimination against health care professionals, organizations, and facilities that decline to provide abortions on moral and religious grounds. This was done to prevent health care providers from being forced to act against their conscience by performing, training in, or giving referrals for abortion.

Unfortunately, several courts have misinterpreted this law by applying its protections only to individual physicians and training programs. Many hospitals and other health care facilities have been left without sufficient legal protection. For example, in 1997 the Alaska Supreme Court ordered a private hospital to provide abortion even though it went against the ethical standards set by its operating board.

H.R. 4691 would uphold the intent of Congress by clarifying the right of *all* health care providers to follow their conscience. It would also strengthen current law by ensuring providers cannot be forced to pay for abortion services. Forty-six states, including my home state of Nebraska, have similar conscience protection laws. I urge my colleagues to join me in supporting H.R. 4691 to ensure health care providers do not have to perform or pay for abortions they believe are morally wrong.

Mr. SHAYS. Mr. Speaker, I strongly oppose H.R. 4691, the inappropriately named Abortion Non-Discrimination Act, which would radically alter current law by allowing health care entities to exempt themselves from any federal, state or local law that assures women have access to abortion services, including basic information. This sort of preemption contradicts local policies espoused by this Congress.

This legislation flies in the face of a woman's right to choose as well as her basic right to be informed about her reproductive options. Moreover, H.R. 4691 has the potential to pose a severe threat to efforts to prevent unwanted pregnancies, thus leading to more, not less, abortions. The sweeping nature of this supposedly narrow legislation is staggering.

Family planning programs have been instrumental in helping millions of American women obtain reproductive health care for three decades. H.R. 4691 could essentially ''gag'' clinic staff from giving pregnant women information and referrals for all their legal options, including adoption, carrying the pregnancy to term and abortion.

There is currently no federal requirement that a health care entity provide abortion services against its will. Furthermore, there is no federal statutory requirement that any individual participate in the provision of reproductive health services if he or she objects. This legislation is therefore not only without merit but completely unnecessary.

I urge my colleagues to vote against H.R. 4691.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong opposition to H.R. 4691. This legislation, the Abortion Non-Discrimination Act of 2002, would essentially allow any health care entity, including hospitals, health insurance companies, HMOS, etc. to exempt themselves from current federal, state and local laws, that assure women have access to abortion services.

If passed, H.R. 4691 would provide a sweeping new exemption from current laws and regulations that gives the women of this country information about, and access to, reproductive health services.

This bill is specifically designed to override state constitutions, laws and local regulations that anti-choice activists have tried to overturn for years. This legislation will override the progress of states' that have worked to assure that women not only have access to reproductive services, but also the right to basic information.

By and large, the federal government does not pay for abortion services. The Hyde amendment to the Medicaid program stipulates that Medicaid clients must have access to abortion services in cases of rape, incest, or when the pregnancy endangers a woman's life. However, states may use their own Medicaid funds to cover abortion services beyond those narrow circumstances if they wish, and in fact, 21 states do so. This bill would preclude these states from enforcing their own laws and constitutional decisions in the area of abortion services for low-income women.

This bill is not limited to abortion services themselves. Under the bill, states would be prohibited from requiring that health-care entities participating in their Medicaid programs provide referrals for abortion services. It would therefore prohibit state from ensuring that patients have all the information they need to make an informed choice about their health care.

In deciding whether to approve a hospital merger, for example, a state could not even consider whether the newly merged hospital system would diminish the community's access to full reproductive health services. This would tie the hands of states trying to ensure that entire communities are not completely without any qualified abortion providers. In fact, supporters of the bill have states that this is exactly their intent.

Current law essentially requires that patients are entitled to full information about their medical options. The anti-choice movement has long sought to deny pregnant women information about their full range of options. H.R. 4691 bill accomplishes this goal by newly categorizing the Title X referral requirement as ''discrimination.''

Title X has a long-standing referral requirement that while Title X funds cannot be used to pay for abortion services, it must provide women information about the full range of medical care and reproductive options, including abortion. H.R. 4691 would override this, which will have the effect of instituting a gag on health care providers across the country.

Current law already allows individual health care providers to refrain from providing any reproductive services if they object, and that there is no federal statutory requirement that a health-care entity provide abortion services. While proponents tout this as a religious-

based ''conscience clause'' there is no actual requirement in the bill that a health-care entity demonstrate a religious objection. So in actuality, under this bill any health plan, hospital or HMO could opt out of current standards that provide women information about, and access to, abortion services for any conceivable reason.

Mr. Speaker, I urge my Colleagues to oppose this legislation. This bill would disrupt the balance between federal, state and local authority and severely jeopardize reproductive health care and women's health.

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). All time for debate has expired.

Pursuant to House Resolution 546, the bill is considered read for amendment, and the previous question is ordered.

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.

MOTION TO RECOMMIT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROWN of Ohio. I am, Mr. Speaker, in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROWN of Ohio moves to recommit the bill, H.R. 4691, to the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendments:

Page 2, line 5, strike ''Section'' and insert ''(a) IN GENERAL.—Section''.

Page 2, after line 24, add the following subsection:

(b) EFFECTS ON PATIENTS AND EMPLOYEES; STATE LAW.—The amendments made by subsection (a) shall not be construed as—

(1) authorizing any institution to withhold medically appropriate information or services from a patient;

(2) authorizing any institution to prohibit its employees, contractors, or grantees from discussing or providing all medically appropriate information or services; or

(3) preempting or abrogating a State's right to enforce its constitution, laws, policies, or regulations.

Mr. BROWN of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes in support of his motion.

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

This is a motion to recommit in the purest sense of the word and in the most deserving sense of the term, and that is, Mr. Speaker, that this bill was never discussed in the Committee on Commerce to begin with. Normally, on motions to recommit after a bill goes through the process, it comes out of committee, goes to the floor, and people want to make a change or oppose it and they say, let us send it back to committee, let us recommit it so we can make some changes. But since this legislation was never there, it is even more deserving of a recommital, an affirmative vote on a recommittal motion.

The legislation we are considering today goes far beyond a so-called clarification of existing law, which permits hospitals and doctors to deny women abortion services based on that provider's religious belief. We believe that, too. Current law allows doctors and hospitals to refuse to provide services they are religiously opposed to, as they should, as the law should. But this bill, Mr. Speaker, goes much further than that. It is not about the religious beliefs of providers, it is about denying health care information and services to women, including counseling services. This bill gags doctors, it gags hospitals from referring women to family planning clinics, even those women who have been raped, even those women who are the victims of incest, and even those women whose lives and health are in danger.

Under H.R. 4691, the legislation we are discussing, insurance companies could deny coverage of family planning services, even when medically necessary, regardless of their religious beliefs. It has nothing to do with religion; it has a lot to do with an HMO's bottom line. Relevant State laws would be trumped, even though these laws are designed to protect women. In other words, Mr. Speaker, the State of California, the State of Ohio, the State of Nebraska, the State of Florida might have passed legislation to protect women; this legislation overrides what those State laws wanted to do to provide these counseling services, or to provide these referral services at the hospital or by a physician.

This bill gags doctors, it gags hospitals, regardless of religious belief. It denies women access to medically necessary services regardless of their religious beliefs. Bottom line: it compromises women's health. That is why this bill should not have been on the floor and that is why we should support the motion to recommit.

I am offering the motion to recommit to safeguard against these efforts. The motion provides that H.R. 4691 not authorize any institution to prevent its providers from providing medically appropriate information or services. It does not authorize any institution to withhold medically appropriate information or services from its patients; it does not preempt State laws from enforcing that State's Constitution or that State's laws. This motion makes no change to current law that allows doctors, nurses, and hospitals to refuse to provide abortion services if those services conflict with the doctor's or the hospital's religious beliefs. It does not affect current prohibition against providing abortion services with Federal funds, it simply limits the harm that H.R. 4691 will do.

Imagine, Mr. Speaker, as we discussed before, a woman has been raped or a woman has been a victim of incest. Her life might be in danger, she comes into a hospital. Under this legislation, that hospital simply may not provide her any information, no counseling, no referral; there is a gag on that hospital's ability to do that. Where I come from, reasonable people have differences, honest differences between when abortion should be legal. Should it be legal, should it not be legal, and in what cases should it be legal. But it is only the extreme far right, the leadership of the Republican Party that wants to pass legislation like this where there are no exceptions for rape, for incest, for the life of the woman. The great, great majority of people in this country think a woman who has been raped, who has been a victim of incest, whose life might be in danger comes into a hospital, she should be given information; she should be given counseling if she so chooses; she should be given a referral if she so chooses. This bill, this very rigid bill, inflexible bill, does not allow that. The motion to recommit is important to protect women like that. This motion to recommit is important to preserve the medical standard that guarantees women access to necessary health care.

Mr. Speaker, I ask for a ''yes'' vote on the motion to recommit.

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

Mr. BILIRAKIS. Mr. Speaker, I rise to claim the time in opposition to the motion, and I yield myself such time as I may consume.

Mr. Speaker, Members should reject the motion to recommit, because it does nothing but gut the intent of the underlying bill. The bill before us, as I said earlier, is simple. No one under any circumstances should be forced to perform an abortion against their will. It would be unconscionable for us to force them to do so, but some courts are doing just that, and that is why this clarification must be made.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the Brown motion states that this bill shall not be construed as authorizing any institution to withhold medically appropriate services from a patient. What are those ''services?'' They are abortion services, Mr. Speaker.

The problem with the Brown motion is it does not define medically appropriate, it leaves it up to further definition. Perhaps some Attorney General or health commissioner in a government that happens to be pro-abortion

would say that is what medically appropriate means, or NARAL might say that is what appropriate means, and we are talking about abortion. That is what is on the table here, and I hope all Members understand that.

This killer motion, will enable the killing of babies. It absolutely reverses the intent of conscience protection and undermines the very law that was passed a few years ago, and takes us further back than we are already right now. I urge Members to vote ''no'' on this gutting motion.

I want to remind Members that 86 percent of the hospitals in America do not perform abortions. Thank God for that. They protect and preserve and cherish the lives of babies and their mothers—all their patients. They would be compelled under the Brown motion, forced, coerced, or empower others the ability to force them to perform abortions.

This debate is all about conscience. The Bilirakis bill is a great bill, it is an important bill, it is a human rights bill that says conscience means something. We ought to take this step. Vote for it. Vote down this gutting motion.

Mr. BILIRAKIS. Mr. Speaker, I yield the balance of the time to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me just start out by saying, one of the things my father taught me when I was a kid growing up is when people call you names, often the case is they have a problem themselves with the name they are calling you, and we have been called extreme and radical for doing this. I really take offense at that. I believe very strongly all we are trying to do in this bill is to just clarify the intent of the Congress 6 years ago when it originally passed this conscience clause language, and it is the left, it is the pro-abortion left that is trying to do an end run through the courts around this.

Now, this motion to recommit is a classic gutting motion to recommit. It invalidates the entire intent of the bill. It has language that says the statute shall not be construed as authorizing any institution to withhold medically appropriate information or services from a patient. So in other words, we are back to square one. The original intent of the law was it covered hospitals because it referred to them as health care entities, and now we have the courts arguing that hospitals are somehow not health care entities, and they should have to provide these services or referrals.

What they are arguing for here is we have a Catholic hospital, pro-life, they hire a doctor, and the doctor gets in there and he decides he wants to start referring his patients for an abortion. If it is the position of the hospital that that violates their position, they do not want that policy in place, they can enforce it under the conscience clause that we are trying to enact under this law. They have a gutting amendment here that essentially would make it impossible for those institutions, many of which are run by the church, many of which are not run by the church; I want to just underscore this. There are a lot of hospitals that are secular and they do not want to do abortions, and yet what this amendment would effectively do is make it possible for anybody to do abortion counseling, abortion referral, even abortion procedures in hospitals that do not want to do it.

Furthermore, it goes on to say that this law will not abrogate any States rights. So essentially, if the State wants to act very aggressively, statutes that would allow abortion procedures in all hospitals in the State, that this would not be prohibited. This clearly violates the intent of many people in this body, people on both sides of this issue. We had a lot of people who are pro-life and a lot of people who are pro-choice who supported this provision.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

Mr. BROWN of Ohio. 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will advise all Members that the telephone system is not working and the cloakrooms are unable to page Members. The bell systems and the whip systems will notify Members of the vote. The Chair will monitor the progress of the vote. Members are reminded that the paging system is currently not operating.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 191, nays 230, not voting 11, as follows:

[Roll No. 411]

YEAS—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Neal
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—230

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Bono
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Costello
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kucinich
LaFalce
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan

Moran (KS)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Bachus
Callahan
Ganske
Hilliard
Maloney (NY)
Mascara
Mink
Roukema
Stump
Thurman
Towns

□ 1425

Messrs. SAM JOHNSON of Texas, LANGEVIN, SCHAFFER, EHLERS, CHAMBLISS, KINGSTON and SWEENEY changed their vote from ''yea'' to ''nay.''

Mr. BLAGOJEVICH, Mrs. CAPPS, Mrs. JOHNSON of Connecticut, and Mr. PASCRELL changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). 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.

RECORDED VOTE

Ms. WOOLSEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 229, noes 189, answered ''present'' 2, not voting 12, as follows:

[Roll No. 412]

AYES—229

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Biliraki
Blunt
Boehner
Bonilla
Boozman
Borski
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gillmor
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Knollenberg
LaFalce
LaHood
Langevin
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Manzullo
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Gary
Miller, Jeff
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Stupak
Sullivan
Sununu
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—189

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kirk
Kleczka
Kolbe
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Dan
Miller, George
Moore
Moran (VA)
Morella
Nadler
Napolitano
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Sweeney
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

ANSWERED ''PRESENT''—2

Kaptur
Kucinich

NOT VOTING—12

Bachus
Callahan
Cubin
Maloney (NY)
Mascara
Mink
Olver
Roukema
Sherwood
Stump
Thurman
Towns

□ 1437

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. SENSENBRENNER (during consideration of House Resolution 545) submitted the following conference report and statement on the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes:

CONFERENCE REPORT (H. REPT. 107–685)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2215), to authorize appropriations for the Department of Justice for fiscal year 2002, 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 proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''21st Century Department of Justice Appropriations Authorization Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

Sec. 101. Specific sums authorized to be appropriated for fiscal year 2002.

Sec. 102. Specific sums authorized to be appropriated for fiscal year 2003.

Sec. 103. Appointment of additional assistant United States attorneys; reduction of certain litigation positions.

Sec. 104. Authorization for additional assistant United States attorneys for project safe neighborhoods.

TITLE II—PERMANENT ENABLING PROVISIONS

Sec. 201. Permanent authority.
Sec. 202. Permanent authority relating to enforcement of laws.
Sec. 203. Miscellaneous uses of funds; technical amendments.
Sec. 204. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General.
Sec. 205. Oversight; waste, fraud, and abuse within the Department of Justice.
Sec. 206. Enforcement of Federal criminal laws by Attorney General.
Sec. 207. Strengthening law enforcement in United States territories, commonwealths, and possessions.

TITLE III—MISCELLANEOUS

Sec. 301. Repealers.
Sec. 302. Technical amendments to title 18 of the United States Code.
Sec. 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal years 2004 and 2005.
Sec. 304. Study of untested rape examination kits.
Sec. 305. Reports on use of DCS 1000 (Carnivore).
Sec. 306. Study of allocation of litigating attorneys.
Sec. 307. Use of truth-in-sentencing and violent offender incarceration grants.
Sec. 308. Authority of the Department of Justice Inspector General.
Sec. 309. Review of the Department of Justice.
Sec. 310. Authorization of appropriations.
Sec. 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families.
Sec. 312. Additional Federal judgeships.

TITLE IV—VIOLENCE AGAINST WOMEN

Sec. 401. Short title.
Sec. 402. Establishment of Violence Against Women Office.
Sec. 403. Effective date.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

Sec. 1101. Boys and Girls Clubs of America.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

Sec. 2001. Short title.

Subtitle A—Drug-Free Prisons and Jails

Sec. 2101. Use of residential substance abuse treatment grants to provide for services during and after incarceration.
Sec. 2102. Jail-based substance abuse treatment programs.
Sec. 2103. Mandatory revocation of probation and supervised release for failing a drug test.

Subtitle B—Treatment and Prevention

Sec. 2201. Report on drug-testing technologies.
Sec. 2202. Drug and substance abuse treatment, prevention, education, and research study.
Sec. 2203. Drug abuse and addiction research.

Subtitle C—Drug Courts

Sec. 2301. Drug courts.
Sec. 2302. Authorization of appropriations.
Sec. 2303. Study by the General Accounting Office.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

Sec. 2411. Post incarceration vocational and remedial educational opportunities for inmates.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

Sec. 2421. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

Subtitle E—Other Matters

Sec. 2501. Amendment to Controlled Substances Act.
Sec. 2502. Study of methamphetamine treatment.
Sec. 2503. Authorization of funds for DEA police training in South and Central Asia.
Sec. 2504. United States-Thailand drug prosecutor exchange program.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

Sec. 3001. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.
Sec. 3002. Correction of aberrant statutes to permit imposition of both a fine and imprisonment.
Sec. 3003. Reinstatement of counts dismissed pursuant to a plea agreement.
Sec. 3004. Appeals from certain dismissals.
Sec. 3005. Clarification of length of supervised release terms in controlled substance cases.
Sec. 3006. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 3007. Clarification that making restitution is a proper condition of supervised release.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

Sec. 4001. Short title.
Sec. 4002. Technical amendments relating to criminal law and procedure.
Sec. 4003. Additional technicals.
Sec. 4004. Repeal of outmoded provisions.
Sec. 4005. Amendments resulting from Public Law 107–56.
Sec. 4006. Cross reference correction.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

Sec. 5001. Paul Coverdell Forensic Sciences Improvement Grants.
Sec. 5002. Authorization of appropriations.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

Sec. 11001. Law Enforcement Tribute Act.
Sec. 11002. Disclosure of grand jury matters relating to money laundering offenses.
Sec. 11003. Grant program for State and local domestic preparedness support.
Sec. 11004. United States Sentencing Commission access to NCIC terminal.
Sec. 11005. Danger pay for FBI agents.
Sec. 11006. Police corps.
Sec. 11007. Radiation exposure compensation technical amendments.
Sec. 11008. Federal Judiciary Protection Act of 2002.
Sec. 11009. James Guelff and Chris McCurley Body Armor Act of 2002.
Sec. 11010. Persons authorized to serve search warrant.
Sec. 11011. Study on reentry, mental illness, and public safety.
Sec. 11012. Technical amendment to Omnibus Crime Control Act.
Sec. 11013. Debt collection improvement.
Sec. 11014. SCAAP authorization.
Sec. 11015. Use of annuity brokers in structured settlements.
Sec. 11016. INS processing fees.
Sec. 11017. United States Parole Commission extension.
Sec. 11018. Waiver of foreign country residence requirement with respect to international medical graduates.
Sec. 11019. Pretrial disclosure of expert testimony relating to defendant's mental condition.
Sec. 11020. Multiparty, Multiforum Trial Jurisdiction Act of 2002.
Sec. 11021. Additional place of holding court in the southern district of Ohio.
Sec. 11022. Direct shipment of wine.
Sec. 11023. Webster Commission implementation report.
Sec. 11024. FBI police.
Sec. 11025. Report on FBI information management and technology.
Sec. 11026. GAO report on crime statistics reporting.
Sec. 11027. Crime-free rural States grants.
Sec. 11028. Motor vehicle franchise contract dispute resolution process.
Sec. 11029. Holding court for the southern district of Iowa.
Sec. 11030. Posthumous citizenship restoration.
Sec. 11030A. Extension of H–1B status for aliens with lengthy adjudications.
Sec. 11030B. Application for naturalization by alternative applicant if citizen parent has died.

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

Sec. 11031. Removal of conditional basis of permanent resident status for certain alien entrepreneurs, spouses, and children.
Sec. 11032. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.
Sec. 11033. Regulations.
Sec. 11034. Definitions.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

Sec. 11035. Definition of ''full-time employment''.
Sec. 11036. Eliminating enterprise establishment requirement for alien entrepreneurs.
Sec. 11037. Amendments to pilot immigration program for regional centers to promote economic growth.

Subtitle C—Judicial Improvements Act of 2002

Sec. 11041. Short title.
Sec. 11042. Judicial discipline procedures.
Sec. 11043. Technical amendments.
Sec. 11044. Severability.

Subtitle D—Antitrust Modernization Commission Act of 2002

Sec. 11051. Short title.
Sec. 11052. Establishment.
Sec. 11053. Duties of the Commission.
Sec. 11054. Membership.
Sec. 11055. Compensation of the Commission.
Sec. 11056. Staff of Commission; experts and consultants.
Sec. 11057. Powers of the Commission.
Sec. 11058. Report.
Sec. 11059. Termination of Commission.
Sec. 11060. Authorization of appropriations.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Sec. 12101. Short title.
Sec. 12102. Juvenile offender accountability.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Sec. 12201. Short title.

Sec. 12202. Findings.
Sec. 12203. Purpose.
Sec. 12204. Definitions.
Sec. 12205. Concentration of Federal effort.
Sec. 12206. Coordinating Council on Juvenile Justice and Delinquency Prevention.
Sec. 12207. Annual report.
Sec. 12208. Allocation.
Sec. 12209. State plans.
Sec. 12210. Juvenile delinquency prevention block grant program.
Sec. 12211. Research; evaluation; technical assistance; training.
Sec. 12212. Demonstration projects.
Sec. 12213. Authorization of appropriations.
Sec. 12214. Administrative authority.
Sec. 12215. Use of funds.
Sec. 12216. Limitations on use of funds.
Sec. 12217. Rules of construction.
Sec. 12218. Leasing surplus Federal property.
Sec. 12219. Issuance of rules.
Sec. 12220. Content of materials.
Sec. 12221. Technical and conforming amendments.
Sec. 12222. Incentive grants for local delinquency prevention programs.
Sec. 12223. Effective date; application of amendments.

Subtitle C—Juvenile Disposition Hearing

Sec. 12301. Juvenile disposition hearing.

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Sec. 13101. Short title.
Sec. 13102. Authorization of amounts available to the Patent and Trademark Office.
Sec. 13103. Electronic filing and processing of patent and trademark applications.
Sec. 13104. Strategic plan.
Sec. 13105. Determination of substantial new question of patentability in reexamination proceedings.
Sec. 13106. Appeals in inter partes reexamination proceedings.

Subtitle B—Intellectual Property and High Technology Technical Amendments

Sec. 13201. Short title.
Sec. 13202. Clarification of Reexamination Procedure Act of 1999; technical amendments.
Sec. 13203. Patent and Trademark Efficiency Act amendments.
Sec. 13204. Domestic publication of foreign filed Patent Applications Act of 1999 amendments.
Sec. 13205. Domestic publication of patent applications published abroad.
Sec. 13206. Miscellaneous clerical amendments.
Sec. 13207. Technical corrections in trademark law.
Sec. 13208. Patent and trademark fee clerical amendment.
Sec. 13209. Copyright related corrections to 1999 Omnibus Reform Act.
Sec. 13210. Amendments to title 17, United States Code.
Sec. 13211. Other copyright related technical amendments.

Subtitle C—Educational Use Copyright Exemption

Sec. 13301. Educational use copyright exemption.

Subtitle D—Madrid Protocol Implementation

Sec. 13401. Short title.
Sec. 13402. Provisions to implement the protocol relating to the Madrid Agreement concerning the international registration of marks.
Sec. 13403. Effective date.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Sec. 14101. Short title.
Sec. 14102. Amendments.
Sec. 14103. Effective date; application of amendments.

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2002.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $92,668,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $173,647,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $50,735,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $549,176,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $130,791,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,353,968,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147): Provided, That such amounts in the appropriations account ''General Legal Services'' as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $3,524,864,000, which shall include for each such fiscal year—

(A) not to exceed $33,791,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $648,696,000, which shall include for each such fiscal year not to exceed $15,000,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,622,152,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: $706,182,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,481,783,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $3,499,854,000, which shall include—

(A) not to exceed $2,739,695,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed $631,745,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed $128,454,000 for construction, to remain available until expended; and

(D) not to exceed $50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $338,577,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,136,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $9,876,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,000,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: $1,000,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $94,615,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $132,862,000.

SEC. 102. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2003.

There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: $121,079,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: $198,869,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: $66,288,000, which shall include for each such fiscal year, not to exceed $10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: $659,181,000, which shall include for each such fiscal year—

(A) not less than $4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed $20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: $141,855,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: $1,550,948,000, which shall include not less than $10,000,000 for the investigation and prosecution of intellectual property

crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147):Provided, That such amounts in the appropriations account ''General Legal Services'' as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: $4,323,912,000, which shall include for each such fiscal year—

(A) not to exceed $1,250,000 for construction, to remain available until expended; and

(B) not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: $737,346,000, which shall include for each such fiscal year not to exceed $15,153,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: $4,605,068,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: $1,582,044,000, which shall include not to exceed $70,000 to meet unforeseen emergencies of a confidential character.

(11) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: $4,131,811,000, which shall include—

(A) not to exceed $3,253,561,000 for salaries and expenses of Border Patrol, detention and removals, intelligence, investigations, inspections, and international enforcement, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character;

(B) not to exceed $88,598,000 for salaries and expenses of immigration services, including international services; and

(C) not to exceed $789,652,000 for salaries and expenses for support and administration (i.e., data and communications, information and records management, construction, etc.).

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: $156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed $6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: $362,131,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: $1,194,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: $10,732,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: $22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: $11,355,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: $1,388,583,000.

(19) IDENTIFICATION SYSTEM INTEGRATION.—For expenses necessary for the operation of the Identification System Integration: $24,505,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: $149,292,000.

(21) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(22) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: $35,000,000.

(23) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: $215,811,000.

(24) LEGAL ACTIVITIES OFFICE.—For necessary expenses related to office automation: $15,942,000.

SEC. 103. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) shall be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 104. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section $9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''§ 530C. Authority to use available funds

''(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

''(1) through the Department's own personnel, acting within, from, or through the Department itself;

''(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

''(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

''(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

''(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102–395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104–132 (110 Stat. 1315).

''(b) PERMITTED USES.—

''(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

''(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

''(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

''(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

''(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

''(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on the certificate of the Attorney General.

''(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

''(G) In accordance with procedures established and rules issued by the Attorney General—

''(i) attendance at meetings and seminars;

''(ii) conferences and training; and

''(iii) advances of public moneys under section 3324 of title 31: Provided, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

''(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

''(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

''(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

''(K) Expenses of—

''(i) primary and secondary schooling for dependents of personnel stationed outside the United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

''(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

''(L) payment of rewards (i.e., payments pursuant to public advertisements for assistance to the Department of Justice), in accordance with procedures and regulations established or issued by the Attorney General: Provided, That—

''(i) no such reward shall exceed $2,000,000, unless—

''(I) the reward is to combat domestic terrorism or international terrorism (as defined in section 2331 of title 18); or

''(II) a statute should authorize a higher amount;

''(ii) no such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

''(iii) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under clause (ii);

''(iv) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards; and

''(v) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

''(2) SPECIFIC PERMITTED USES.—

''(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

''(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

''(i) the purchase of ammunition and firearms; and

''(ii) participation in firearms competitions.

''(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

''(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

''(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

''(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

''(C) construction of protected witness safesites.

''(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

''(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

''(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

''(B) cash advances to aliens for meals and lodging en route;

''(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

''(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

''(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

''(A) inmate medical services and inmate legal services, within the Federal prison system;

''(B) the purchase and exchange of farm products and livestock;

''(C) the acquisition of land as provided in section 4010 of title 18; and

''(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

''(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

''(c) RELATED PROVISIONS.—

''(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

''(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

''(d) FOREIGN REIMBURSEMENTS.—Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

''(e) RAILROAD POLICE TRAINING FEES.—The Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106–110, and to credit such fees to the appropriation account 'Federal Bureau of Investigation, Salaries and Expenses', to be available until expended for salaries and expenses incurred in providing such services.

''(f) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''530C. Authority to use available funds.''.

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''§ 530D. Report on enforcement of laws

''(a) REPORT.—

''(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

''(A) establishes or implements a formal or informal policy to refrain—

''(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

''(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of, that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution, any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

''(B) determines—

''(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

''(ii) to refrain (on the grounds that the provision is unconstitutional) from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

''(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

''(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, $2,000,000, excluding prejudgment interest; or

''(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration: Provided, That for purposes of this clause, the term ''injunctive or other nonmonetary relief'' shall not be understood to include the following, where the same are a matter of public record—

''(I) debarments, suspensions, or other exclusions from Government contracts or grants;

''(II) mere reporting requirements or agreements (including sanctions for failure to report);

''(III) requirements or agreements merely to comply with statutes or regulations;

''(IV) requirements or agreements to surrender professional licenses or to cease the practice of professions, occupations, or industries;

''(V) any criminal sentence or any requirements or agreements to perform community service, to serve probation, or to participate in supervised release from detention, confinement, or prison; or

''(VI) agreements to cooperate with the government in investigations or prosecutions (whether or not the agreement is a matter of public record).

''(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

''(A) the majority leader and minority leader of the Senate;

''(B) the Speaker, majority leader, and minority leader of the House of Representatives;

''(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

''(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

''(b) DEADLINE.—A report shall be submitted—

''(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

''(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

''(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

''(c) CONTENTS.—A report required by subsection (a) shall—

''(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

''(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

''(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, or of any information the disclosure of which is prohibited by section 6103 of the Internal Revenue Code of 1986, or other law or any court order if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: Provided, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

''(B) the requirements of this paragraph shall be deemed satisfied—

''(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement or compromise (if not apparent on the face of documents provided); and

''(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

''(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

''(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

''(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President (but only with respect to the promulgation of any unclassified Executive order or similar memorandum or order), to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

''530D. Report on enforcement of laws.''.

(2) Section 712 of Public Law 95–521 (92 Stat. 1883) is amended by striking subsection (b) and inserting:

''(b) The Attorney General shall notify Counsel as required by section 530D of title 28.''.

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

(5) Section 101 of Public Law 106–57 (113 Stat. 414) is amended by striking subsection (b).

SEC. 203. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking ''502'' and inserting ''501(b)'';

(2) in section 506(a)(1) by striking ''participating'';

(3) in section 510(a)(3) by striking ''502'' and inserting ''501(b)'';

(4) in section 510 by adding at the end the following:

''(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention.''; and

(5) in section 511 by striking ''503'' and inserting ''501(b)''.

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking ''at not more than $12,000''.

SEC. 204. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORDKEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting ''to the Attorney General'' after ''available'';

(2) in subsection (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I);

(C) by striking ''(A)(iv), (B), (F), (G), and (H)'' in the first sentence following the second subparagraph (I) and inserting ''(B), (F), and (G)''; and

(D) by striking ''fund'' in the 3d sentence following the 2d subparagraph (I) and inserting ''Fund'';

(3) in subsection (c)(2)—

(A) by inserting before the period in the last sentence '', without both the personal approval of the Attorney General and written notice within 30 days thereof to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives'';

(B) by striking ''for information'' each place it appears; and

(C) by striking ''$250,000'' the 2d and 3d places it appears and inserting ''$500,000'';

(4) in subsection (c)(3) by striking ''(F)'' and inserting ''(G)'';

(5) in subsection (c)(5) by striking ''Fund which'' and inserting ''Fund, that'';

(6) in subsection (c)(8)(A), by striking ''(A)(iv), (B), (F), (G), and (H)'' and inserting ''(B), (F), and (G)''; and

(7) in subsection (c)(9)(B)—

(A) by striking ''year 1997'' and inserting ''years 2002 and 2003''; and

(B) by striking ''Such transfer shall not'' and inserting ''Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall''.

(b) Section 522 of title 28, United States Code, is amended by inserting ''(a)'' before ''The'', and by inserting at the end the following:

''(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the

same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).''.

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding ''and'' after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

''(3) to assist in the protection of the person of the Attorney General.''.

(f) No compensation or reimbursement paid pursuant to section 501(a) of Public Law 99–603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

(g) Section 108 of Public Law 103–121 (107 Stat. 1164) is amended by replacing ''three'' with ''six'', by replacing ''only'' with '', first,'', and by replacing ''litigation.'' with ''litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.''.

SEC. 205. OVERSIGHT; WASTE, FRAUD, AND ABUSE WITHIN THE DEPARTMENT OF JUSTICE.

(a) Section 529 of title 28, United States Code, is amended by inserting ''(a)'' before ''Beginning'', and by adding at the end the following:

''(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

''(1) a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties, the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same; and

''(2) a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract over $5,000,000 made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

''(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

''(B) the terms of the grant, cooperative agreement, or contract were complied with; and

''(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.''.

(b) Section 1913 of title 18, United States Code, is amended by striking ''to favor'' and inserting ''a jurisdiction, or an official of any government, to favor, adopt,'', by inserting '', law, ratification, policy,'' after ''legislation'' every place it appears, by striking ''by Congress'' the 2d place it appears, by inserting ''or such official'' before '', through the proper'', by inserting '', measure,'' before ''or resolution'', by striking ''Members of Congress on the request of any Member'' and inserting ''any such Member or official, at his request,'', by striking ''for legislation'' and inserting ''for any legislation'', and by striking the period and the paragraph following ''business'' and inserting '', or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counterintelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.''.

(c) Section 1516(a) of title 18, United States Code, is amended by inserting '', entity, or program'' after ''person'', and by inserting ''grant, or cooperative agreement,'' after ''subcontract,''.

(d) Section 112 of title I of section 101(b) of division A of Public Law 105–277 (112 Stat. 2681–67) is amended by striking ''fiscal year'' and all that follows through ''Justice—'', and inserting ''any fiscal year the Attorney General—''.

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking ''title 18'' each place it appears and inserting ''this title''; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting ''(1)'' after ''(f)''; and

(4) by adding at the end the following:

''(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

''(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

''(ii) The number of online infringement cases.

''(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

''(iv) The total amount of restitution ordered in all copyright infringement cases.

''(B) In this paragraph, the term 'online infringement cases' as used in paragraph (2) means those cases where the infringer—

''(i) advertised or publicized the infringing work on the Internet; or

''(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

''(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.''.

SEC. 206. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing ''title 18'' with ''Federal criminal law'', and in subsection (b), by replacing ''or complaint'' with ''matter, or complaint witnessed, discovered, or'', and by inserting ''or the witness, discoverer, or recipient, as appropriate,'' after ''agency,''.

SEC. 207. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) EXTENDED ASSIGNMENT INCENTIVE.—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

''§ 5757. Extended assignment incentive

''(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

''(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

''(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

''(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

''(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

''(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

''(2) $15,000 per year in the service period.

''(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

''(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

''(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on

charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

''(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

''(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

''(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee's entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency's independent authority to administratively determine compensation for a class of its employees.''; and

(2) in the analysis by adding at the end the following:

''5757. Extended assignment incentive.''.

(b) CONFORMING AMENDMENT.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking ''or 5755'' and inserting ''5755, or 5757''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

(c) REDUNDANT AUTHORIZATIONS OF PAYMENTS FOR REWARDS.—

(1) Public Law 107–56 is amended by striking section 501.

(2) Chapter 203 of title 18, United States Code, is amended by striking sections 3059, 3059A, 3059B, 3075, and all the matter after the first sentence of 3072.

(3) Public Law 101–647 is amended in section 2565, by replacing all the matter after ''2561'' in subsection (c)(1) with ''the Attorney General may, in his discretion, pay a reward to the declarant'' and by striking subsection (e); and by striking section 2569.

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking ''at a salary of $10,000 a year'';

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing ''the support of United States prisoners'' with ''Federal prisoner detention'';

(ii) in paragraph (2) by adding ''and'' after ''hire;'';

(iii) in paragraph (3) by replacing ''entities; and'' with ''entities.''; and

(iv) in paragraph (4) by inserting ''The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for'' before ''entering''; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking ''or makes'' and inserting ''makes''; and

(B) by striking ''supplements the salary of, any'' and inserting ''supplements, the salary of any''.

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEARS 2004 AND 2005.

When the President submits to the Congress the budget of the United States Government for fiscal year 2004, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal years 2004 and 2005 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORTS ON USE OF DCS 1000 (CARNIVORE).

(a) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 3123.—At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(2) the offense specified in the order or application, or extension of an order;

(3) the number of investigations involved;

(4) the number and nature of the facilities affected;

(5) the identity of the applying investigative or law enforcement agency making the application for an order; and

(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

(b) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 2518.—At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

(1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);

(2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) the offense specified in the order or application, or extension of an order;

(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

(5) the nature of the facilities from which or place where communications were to be intercepted;

(6) a general description of the interceptions made under such order or extension, including—

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted;

(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(8) the number of trials resulting from such interceptions;

(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, and per-attorney workloads, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

''(b) USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.—Funds provided under section 20103 or 20104 may be applied to the cost of—

''(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

''(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

''(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

''(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

''(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

''(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

''(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General.''; and

(2) by adding at the end the following:

''(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.''.

SEC. 309. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2004.

(2) CONTINUATION OF OVERSIGHT.—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2004, at the discretion of the Inspector General.

(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.—Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

(1) whether there should be established, within the Department of Justice, a separate office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated $2,000,000 to the Department of Justice for fiscal year 2003—

(1) for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Inspector General by 25 full-time employees who shall conduct an increased number of audits, inspections, and investigations of alleged misconduct by employees of the Federal Bureau of Investigation;

(2) to fund expanded audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and

(3) to conduct special reviews of efforts by the Federal Bureau of Investigation to implement recommendations made by the Office of Inspector General in reports on alleged misconduct by the Bureau.

(b) FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated $1,700,000 to the Federal Bureau of Investigation for fiscal year 2003 for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

SEC. 311. REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.

(a) REPEAL OF COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.—Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat.1310) is repealed.

(b) REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.—Not later than 45 days after the end of fiscal year 2002, the Attorney General shall submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report on the number of investigations and prosecutions under section 111 of title 18, United States Code, and section 115 of title 18, United States Code, for the fiscal year 2002.

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

(2) 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 paragraph (1) of this subsection, such table is amended—

(A) by striking the item relating to California and inserting the following:

''California:

Northern	14
Eastern	6
Central	27
Southern	13'';

(B) by striking the item relating to North Carolina and inserting the following:

''North Carolina:

Eastern	4
Middle	4
Western	4'';

and

(C) by striking the item relating to Texas and inserting the following:

''Texas:

Northern	12
Southern	19
Eastern	7
Western	13''.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(b) DISTRICT JUDGESHIPS FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS, THE NORTHERN DISTRICT OF NEW YORK, AND THE EASTERN DISTRICT OF VIRGINIA.—

(1) CONVERSION OF TEMPORARY JUDGESHIPS TO PERMANENT JUDGESHIPS.—The existing district judgeships for the central district and the southern district of Illinois, the northern district of New York, and the eastern district of Virginia authorized by section 203(c) (3), (4), (9), and (12) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to Illinois and inserting the following:

''Illinois:
Northern 22
Central 4
Southern ..... 4'';

(B) by striking the item relating to New York and inserting the following:

''New York:
Northern 5
Southern 28
Eastern 15
Western ..... 4'';

and

(C) by striking the item relating to Virginia and inserting the following:

''Virginia:
Eastern 11
Western ..... 4''.

(3) EFFECTIVE DATE.—With respect to the central or southern district of Illinois, the northern district of New York, or the eastern district of Virginia, this subsection shall take effect on the earlier of—

(A) the date on which the first vacancy in the office of district judge occurs in such district; or

(B) July 15, 2003.

(c) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the northern district of Alabama;

(B) 1 additional judge for the district of Arizona;

(C) 1 additional judge for the central district of California;

(D) 1 additional judge for the southern district of Florida;

(E) 1 additional district judge for the district of New Mexico;

(F) 1 additional district judge for the western district of North Carolina; and

(G) 1 additional district judge for the eastern district of Texas.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.—Section 203(c) of the Judicial Improvement Act of 1990 (28 U.S.C. 133 note) is amended—

(A) in the first sentence following paragraph (12), by striking ''and the eastern district of Pennsylvania'' and inserting '', the eastern district of Pennsylvania, and the northern district of Ohio''; and

(B) by inserting after the third sentence following paragraph (12) ''The first vacancy in the office of district judge in the northern district of Ohio occurring 15 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

TITLE IV—VIOLENCE AGAINST WOMEN

SEC. 401. SHORT TITLE.

This title may be cited as the ''Violence Against Women Office Act''.

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)—

(A) in paragraph (2), by striking ''section 2005'' and inserting ''section 2010''; and

(B) in paragraph (3), by striking ''section 2006'' and inserting ''section 2011'';

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2011, respectively; and

(3) by inserting after section 2001 the following:

''SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) IN GENERAL.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this part referred to as the ''Office'').

''(b) SEPARATE OFFICE.—The Office shall be a separate and distinct office within the Department of Justice, headed by a Director, who shall report to the Attorney General and serve as Counsel to the Attorney General on the subject of violence against women, and who shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office.

''(c) JURISDICTION.—Under the general authority of the Attorney General, the Office—

''(1) shall have sole jurisdiction over all duties and functions described in section 2004; and

''(2) shall be solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (title VI of Public 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386).

''SEC. 2003. DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

''(a) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office (in this title referred to as the 'Director') to be responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of the Office.

''(b) OTHER EMPLOYMENT.—The Director shall not—

''(1) engage in any employment other than that of serving as Director; or

''(2) hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) or the Violence Against Women Act of 2000 (division B of Public Law 106–386).

''(c) VACANCY.—In the case of a vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

''(d) COMPENSATION.—The Director shall be compensated at a rate of pay not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''SEC. 2004. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

The Director shall have the following duties:

''(1) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

''(2) Providing information to the President, the Congress, the judiciary, State, local, and tribal governments, and the general public on matters relating to violence against women.

''(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

''(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations.

''(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (division B of Public Law 106–386), including with respect to those functions—

''(A) the development of policy, protocols, and guidelines;

''(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

''(C) the award and termination of grants, cooperative agreements, and contracts.

''(6) Providing technical assistance, coordination, and support to—

''(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

''(B) other Federal, State, local, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

''(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

''(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General.

''(8) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

''SEC. 2005. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

''The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director's responsibilities under this part.''.

''SEC. 2006. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this part for each fiscal year until fiscal year 2005.''.

SEC. 403. EFFECTIVE DATE.

This title shall take effect 90 days after this bill becomes law.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

SEC. 1101. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking ''1,000'' and inserting ''1,200'';

(B) by striking ''2,500'' and inserting ''4,000''; and

(C) by striking ''December 31, 1999'' and inserting ''December 31, 2005, serving not less than 5,000,000 young people'';

(2) in subsection (c)—

(A) in paragraph (1), by striking ''1997, 1998, 1999, 2000, and 2001'' and inserting ''2002, 2003, 2004, 2005, and 2006''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''1,000'' and inserting ''1,200''; and

(ii) in subparagraph (B), by striking ''2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000'' and inserting ''4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007''; and

(3) in subsection (e), by striking paragraph (1) and paragraph (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $70,000,000 for fiscal year 2002;

''(B) $80,000,000 for fiscal year 2003;

''(C) $80,000,000 for fiscal year 2004; and

''(D) $80,000,000 for fiscal year 2005.''.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Drug Abuse Education, Prevention, and Treatment Act of 2002''.

Subtitle A—Drug-Free Prisons and Jails

SEC. 2101. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

''(c) ADDITIONAL USE OF FUNDS.—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.''.

SEC. 2102. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

Part S of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1901(a)—

(A) by striking ''purpose of developing'' and inserting the following: ''purpose of—

''(1) developing''; and

(B) striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(2) encouraging the establishment and maintenance of drug-free prisons and jails.'';

(2) in section 1902, by adding at the end the following:

''(f) USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.''; and

(3) in section 1904, by adding at the end the following:

''(c) LOCAL ALLOCATION.—At least 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year shall be used by the State to make grants to local correctional and detention facilities in the State (provided such facilities exist therein), for the purpose of assisting jail-based substance abuse treatment programs that are effective and science-based established by those local correctional facilities.''.

SEC. 2103. MANDATORY REVOCATION OF PROBATION AND SUPERVISED RELEASE FOR FAILING A DRUG TEST.

(a) REVOCATION OF PROBATION.—Section 3565(b) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' after the semicolon;

(2) in paragraph (3), by striking ''(4),'' and inserting ''(4); or''; and

(3) by adding after paragraph (3) the following:

''(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;''.

(b) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' after the semicolon;

(2) in paragraph (3), by inserting ''or'' after the semicolon; and

(3) by adding after paragraph (3) the following:

''(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;''.

Subtitle B—Treatment and Prevention

SEC. 2201. REPORT ON DRUG-TESTING TECHNOLOGIES.

(a) REQUIREMENT.—The National Institute of Justice shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

SEC. 2202. DRUG AND SUBSTANCE ABUSE TREATMENT, PREVENTION, EDUCATION, AND RESEARCH STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, after consultation with the Attorney General, Secretary of Health and Human Services, Secretary of Education, and other appropriate Federal officers, shall—

(1) conduct a thorough review of all Federal drug and substance abuse treatment, prevention, education, and research programs; and

(2) make such recommendations to Congress as the President may judge necessary and expedient to streamline, consolidate, coordinate, simplify, and more effectively conduct and deliver drug and substance abuse treatment, prevention, and education.

(b) REPORT TO CONGRESS.—The report to Congress shall—

(1) contain a survey of all Federal drug and substance abuse treatment, prevention, education, and research programs;

(2) indicate the legal authority for each program, the amount of funding in the last 2 fiscal years for each program, and a brief description of the program; and

(3) identify authorized programs that were not funded in fiscal year 2002 or 2003.

SEC. 2203. DRUG ABUSE AND ADDICTION RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o–2) is amended by striking subsection (c) and inserting the following:

''(c) DRUG ABUSE AND ADDITION RESEARCH.—

''(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction, including related biomedical, behavioral, and social issues.

''(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for drug abuse and addiction may be used for research and clinical trials relating to—

''(A) the effects of drug abuse on the human body, including the brain;

''(B) the addictive nature of drugs and how such effects differ with respect to different individuals;

''(C) the connection between drug abuse and mental health;

''(D) the identification and evaluation of the most effective methods of prevention of drug abuse and addiction;

''(E) the identification and development of the most effective methods of treatment of drug addiction, including pharmacological treatments;

''(F) risk factors for drug abuse;

''(G) effects of drug abuse and addiction on pregnant women and their fetuses; and

''(H) cultural, social, behavioral, neurological, and psychological reasons that individuals abuse drugs, or refrain from abusing drugs.

''(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State, and local entities involved in combating drug abuse and addiction.

''(4) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each fiscal year.

''(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on drug abuse and addiction.''.

Subtitle C—Drug Courts

SEC. 2301. DRUG COURTS.

(a) DRUG COURTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part DD the following new part:

"PART EE—DRUG COURTS

"SEC. 2951. GRANT AUTHORITY.

''(a) IN GENERAL.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts that involve—

''(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders;

''(2) coordination with the appropriate State or local prosecutor; and

''(3) the integrated administration of other sanctions and services, which shall include—

''(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

''(B) substance abuse treatment for each participant;

''(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

''(D) offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

''(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

''(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender's offense or to a restitution or similar victim support fund.

''(b) LIMITATION.—Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender's rehabilitation.

"SEC. 2952. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

''The Attorney General shall—

''(1) issue regulations or guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

''(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

"SEC. 2953. DEFINITION.

''(a) IN GENERAL.—Except as provided in subsection (b), in this part, the term 'violent offender' means a person who—

''(1) is charged with or convicted of an offense, during the course of which offense or conduct—

''(A) the person carried, possessed, or used a firearm or dangerous weapon;

''(B) there occurred the death of or serious bodily injury to any person; or

''(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

''(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

''(b) DEFINITION FOR PURPOSES OF JUVENILE DRUG COURTS.—For purposes of juvenile drug courts, the term 'violent offender' means a juvenile who has been convicted of, or adjudicated delinquent for, an offense that—

''(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

''(2) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

''SEC. 2954. ADMINISTRATION.

''(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

''(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

''(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

''(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

''(1) include a long-term strategy and detailed implementation plan that shall provide for the consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

''(2) explain the applicant's inability to fund the program adequately without Federal assistance;

''(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

''(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

''(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

''(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

''(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

''(8) describe the methodology that will be used in evaluating the program.

''SEC. 2955. APPLICATIONS.

''To request funds under this part, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

''SEC. 2956. FEDERAL SHARE.

''(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2955 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

''(b) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant.

''SEC. 2957. DISTRIBUTION AND ALLOCATION.

''(a) GEOGRAPHIC DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

''(b) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

''SEC. 2958. REPORT.

''A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attorney General regarding the effectiveness of this part.

''SEC. 2959. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

''(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

''(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees (including uniform data collection standards and reporting requirements), the Attorney General shall carry out or make arrangements for evaluations of programs that receive support under this part.

''(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part DD the following:

''PART EE—DRUG COURTS

''Sec. 2951. Grant authority.
''Sec. 2952. Prohibition of participation by violent offenders.
''Sec. 2953. Definition.
''Sec. 2954. Administration.
''Sec. 2955. Applications.
''Sec. 2956. Federal share.
''Sec. 2957. Distribution and allocation.
''Sec. 2958. Report.
''Sec. 2959. Technical assistance, training, and evaluation.''.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall—

(1) devise a plan to implement recommendations of the General Accounting Office to—

(A) develop and implement a management information system that is able to track and readily identify the universe of drug court programs funded by the Drug Court Program Office of the Department of Justice;

(B) take steps to ensure and sustain an adequate grantee response rate to the Drug Court Program Office's data collection efforts by improving efforts to notify and remind grantees of their reporting requirements;

(C) take corrective action toward grantees that do not comply with the data collection reporting requirement of the Department of Justice;

(D) reinstate the collection of post-program data in the Drug Court Program Office's data collection effort, selectively spot checking grantee responses to ensure accurate reporting;

(E) analyze performance and outcome data collected from grantees and report annually on the results;

(F) consolidate the multiple Department of Justice-funded drug court program-related data collection efforts to better ensure that the primary focus is on the collection and reporting of data on Drug Court Program Office-funded drug court programs;

(G) conduct a methodologically sound national impact evaluation of Drug Court Program Office-funded drug court programs; and

(H) consider ways to reduce the time needed to provide information on the overall impact of Federally-funded drug court programs; and

(2) submit a report on the plan to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: ''or EE''; and

(2) by adding at the end the following:

''(25)(A) Except as provided in subparagraph (C), there are authorized to be appropriated to carry out part EE—

''(i) $50,000,000 for fiscal year 2002;
''(ii) $54,000,000 for fiscal year 2003;
''(iii) $58,000,000 for fiscal year 2004; and
''(iv) $60,000,000 for fiscal year 2005.

''(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.

''(C) No funds made available to carry out part EE shall be expended if the Attorney General fails to submit the report required to be submitted under section 2401(c) of title II of Division B of the 21st Century Department of Justice Appropriations Authorization Act.''.

SEC. 2303. STUDY BY THE GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 2401 and report to Congress the results of the study on or before January 1, 2005.

(b) DOCUMENTS AND INFORMATION.—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) CRITERIA.—In assessing the effectiveness of the grants made under programs authorized by part EE of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

(1) recidivism rates of program participants;

(2) completion rates among program participants;

(3) drug use by program participants; and

(4) the costs of the program to the criminal justice system.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

SEC. 2411. POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES.

(a) FEDERAL REENTRY CENTER DEMONSTRATION.—

(1) AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.—The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners in preparing for and adjusting to reentry into the community.

(2) PROJECT ELEMENTS.—The project authorized by paragraph (1) shall include the following core elements:

(A) A Reentry Review Team for each prisoner, consisting of a representative from the Bureau of Prisons, the United States Probation System, the United States Parole Commission, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner.

(B) A system of graduated levels of supervision with the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project.

(C) Substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed.

(3) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign 1 or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

(4) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this subsection, and shall last 3 years.

(b) DEFINITIONS.—In this section, the term ''appropriate prisoner'' shall mean a person who is considered by prison authorities—

(1) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(2) to lack the skills and family support network that facilitate successful reintegration into the community.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated, to remain available until expended—

(1) to the Federal Bureau of Prisons—
(A) $1,375,000 for fiscal year 2003;
(B) $1,110,000 for fiscal year 2004;
(C) $1,130,000 for fiscal year 2005;
(D) $1,155,000 for fiscal year 2006; and
(E) $1,230,000 for fiscal year 2007; and
(2) to the Federal Judiciary—
(A) $3,380,000 for fiscal year 2003;
(B) $3,540,000 for fiscal year 2004;
(C) $3,720,000 for fiscal year 2005;
(D) $3,910,000 for fiscal year 2006; and
(E) $4,100,000 for fiscal year 2007.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

SEC. 2421. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part EE the following new part:

"PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY

"SEC. 2976. ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.

''(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to $1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult and juvenile offender reentry demonstration projects.

''(b) ADULT OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for adult offender demonstration projects may be expended for—

''(1) oversight/monitoring of released offenders;

''(2) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

''(3) convening community impact panels, victim impact panels or victim impact educational classes; and

''(4) establishing and implementing graduated sanctions and incentives.

''(c) JUVENILE OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for the juvenile offender reentry demonstration projects may be expended for—

''(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

''(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

''(3) oversight/monitoring of released juvenile offenders; and

''(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, family involvement and support, and other services as needed.

''(d) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

''(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

''(2) identify the governmental and community agencies that will be coordinated by this project;

''(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation of the program, including existing community corrections and parole; and

''(4) describe the methodology and outcome measures that will be used in evaluating the program.

''(e) APPLICANTS.—The applicants as designated under 2601(a)—

''(1) shall prepare the application as required under subsection 2601(b); and

''(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

''(f) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

''(g) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains—

''(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

''(2) such other information as the Attorney General may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated $15,000,000 for fiscal year 2003, $15,500,000 for fiscal year 2004, and $16,000,000 for fiscal year 2005.

''(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

''(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

''(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

"SEC. 2977. STATE REENTRY PROJECT EVALUATION.

(a) EVALUATION.—The Attorney General shall evaluate the demonstration projects authorized by section 2976 to determine their effectiveness.

(b) REPORT.—Not later than April 30, 2005, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate containing—

(1) the findings of the evaluation required by subsection (a); and

(2) any recommendations the Attorney General has with regard to expanding, changing, or eliminating the demonstration projects

''PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

''Sec. 2976. Adult Offender State and Local Reentry Demonstration Projects.
''Sec. 2977. State reentry project evaluation.''.

Subtitle E—Other Matters

SEC. 2501. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 303(g)(2)(I) of the Controlled Substances Act is amended by striking ''on the date of enactment'' and all that follows through ''such drugs,'' and inserting ''on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribed such drug, or combination of such drugs''.

SEC. 2502. STUDY OF METHAMPHETAMINE TREATMENT.

Section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 (114 Stat. 1236) is amended by striking ''the Institute of Medicine of the National Academy of Sciences'' and inserting ''the National Institute on Drug Abuse''.

SEC. 2503. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

There is authorized to be appropriated to the Attorney General not less than $5,000,000 for fiscal year 2003 for regional antidrug training by the Drug Enforcement Administration for law enforcement entities (including police, border control, and other entities engaged in drug interdiction and narcotics control efforts), as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 2504. UNITED STATES-THAILAND DRUG PROSECUTOR EXCHANGE PROGRAM.

(a) PROGRAM AUTHORIZATION.—The Attorney General shall establish an exchange program in which prosecutors, judges, or policy makers from the Kingdom of Thailand participate in an exchange program to observe Federal prosecutors in an effort to learn about the various rules and procedures used to prosecute violations of federal criminal narcotics laws.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $75,000 for fiscal year 2003 and $75,000 for fiscal year 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

SEC. 3001. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

(a) IN GENERAL.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''as provided in paragraph (2)'' and inserting ''as provided in paragraph (3)'';

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

''(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

''(A) influence, delay, or prevent the testimony of any person in an official proceeding;

''(B) cause or induce any person to—

''(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

''(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

''(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

''(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

''(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).''; and

(D) in paragraph (3), as redesignated—

(i) by striking ''and'' at the end of subparagraph (A); and

(ii) by striking subparagraph (B) and inserting the following:

''(B) in the case of—

''(i) an attempt to murder; or

''(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

''(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.'';

(2) in subsection (b), by striking ''or physical force''; and

(3) by adding at the end the following:

''(j) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.''.

(b) RETALIATING AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

''(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.''.

(c) CONFORMING AMENDMENTS.—

(1) WITNESS TAMPERING.—Section 1512 of title 18, United States Code, is amended in subsections (b)(3) and (c)(2) by inserting ''supervised release,'' after ''probation''.

(2) RETALIATION AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended in subsections (a)(1)(B) and (b)(2) by inserting ''supervised release,'' after ''probation''.

(d) RESTORATION.—Section 1402(c) of the Victims of Crime Act of 1984 is amended to read as it did on November 27, 2001.

SEC. 3002. CORRECTION OF ABERRANT STATUTES TO PERMIT IMPOSITION OF BOTH A FINE AND IMPRISONMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 401, by inserting ''or both,'' after ''fine or imprisonment,'';

(2) in section 1705, by inserting '', or both'' after ''years''; and

(3) in sections 1916, 2234, and 2235, by inserting '', or both'' after ''year''.

(b) IMPOSITION BY MAGISTRATE.—Section 636 of title 28, United States Code, is amended—

(1) in subsection (e)(2), by inserting '', or both,'' after ''fine or imprisonment''; and

(2) in subsection (e)(3), by inserting ''or both,'' after ''fine or imprisonment,''.

SEC. 3003. REINSTATEMENT OF COUNTS DISMISSED PURSUANT TO A PLEA AGREEMENT.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§3296. Counts dismissed pursuant to a plea agreement

''(a) IN GENERAL.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

''(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

''(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

''(3) the guilty plea was subsequently vacated on the motion of the defendant; and

''(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final.

''(b) DEFENSES; OBJECTIONS.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 213 of title 18, United States Code, is amended in the table of sections by adding at the end the following new item:

''3296. Counts dismissed pursuant to a plea agreement.''.

SEC. 3004. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting '', or any part thereof'' after ''as to any one or more counts''.

SEC. 3005. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

(a) DRUG ABUSE PENALTIES.—Subparagraphs (A), (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking ''Any sentence'' and inserting ''Notwithstanding section 3583 of title 18, any sentence''.

(b) PENALTIES FOR DRUG IMPORT AND EXPORT.—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraphs (1), (2), and (3), by striking ''Any sentence'' and inserting ''Notwithstanding section 3583 of title 18, any sentence''; and

(2) in paragraph (4), by inserting ''notwithstanding section 3583 of title 18,'' before ''in addition to such term of imprisonment''.

SEC. 3006. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting ''(and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment)'' after ''may reduce the term of imprisonment''.

SEC. 3007. CLARIFICATION THAT MAKING RESTITUTION IS A PROPER CONDITION OF SUPERVISED RELEASE.

Subsections (c) and (e) of section 3583 of title 18, United States Code, are amended by striking ''and (a)(6) and inserting ''(a)(6), and (a)(7)''.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

SEC. 4001. SHORT TITLE.

This title may be cited as the ''Criminal Law Technical Amendments Act of 2002''.

SEC. 4002. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) MISSING AND INCORRECT WORDS.—

(1) CORRECTION OF GARBLED SENTENCE.—Section 510(c) of title 18, United States Code, is amended by striking ''fine of under this title'' and inserting ''fine under this title''.

(2) INSERTION OF MISSING WORDS.—Section 981(d) of title 18, United States Code, is amended by striking ''proceeds from the sale of this section'' and inserting ''proceeds from the sale of such property under this section''.

(3) CORRECTION OF INCORRECT WORD.—Sections 1425 through 1427, 1541 through 1544 and 1546(a) of title 18, United States Code, are each amended by striking ''to facility'' and inserting ''to facilitate''.

(4) CORRECTING ERRONEOUS AMENDATORY LANGUAGE ON EXECUTED AMENDMENT.—Effective on the date of the enactment of Public Law 103–322, section 60003(a)(13) of such public law is amended by striking ''$1,000,000 or imprisonment'' and inserting ''$1,000,000 and imprisonment''.

(5) CORRECTION OF REFERENCE TO SHORT TITLE OF LAW.—That section 2332d(a) of title 18, United States Code, which relates to financial transactions is amended by inserting ''of 1979'' after ''Export Administration Act''.

(6) ELIMINATION OF TYPOGRAPHICAL ERROR.—Section 1992(b) of title 18, United States Code, is amended by striking ''term or years'' and inserting ''term of years''.

(7) SPELLING CORRECTION.—Section 2339A(a) of title 18, United States Code, is amended by striking ''or an escape'' and inserting ''of an escape''.

(8) SECTION 3553.—Section 3553(e) of title 18, United States Code, is amended by inserting ''a'' before ''minimum''.

(9) MISSPELLING IN SECTION 205.—Section 205(d)(1)(B) of title 18, United States Code, is amended by striking ''groups's'' and inserting ''group's''.

(10) CONFORMING CHANGE AND INSERTING MISSING WORD IN SECTION 709.—The paragraph in section 709 of title 18, United States Code, that begins with ''A person who'' is amended—

(A) by striking ''A person who'' and inserting ''Whoever''; and

(B) by inserting ''or'' after the semicolon at the end.

(11) ERROR IN LANGUAGE BEING STRICKEN.—Effective on the date of its enactment, section 726(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) is amended—

(A) in subparagraphs (C) and (E), by striking ''section'' the first place it appears; and

(B) in subparagraph (G), by striking ''relating to'' the first place it appears.

(b) MARGINS, PUNCTUATION, AND SIMILAR ERRORS.—

(1) MARGIN ERROR.—Section 1030(c)(2) of title 18, United States Code, is amended so that the margins of subparagraph (B) and each of its clauses, are moved 2 ems to the left.

(2) CORRECTING CAPITALIZATION IN LANGUAGE TO BE STRICKEN.—Effective on the date of its enactment, section 607(g)(2) of the Economic Espionage Act of 1996 is amended by striking ''territory'' and inserting ''Territory''.

(3) CORRECTING PARAGRAPHING.—The material added to section 521(a) of title 18, United States Code, by section 607(q) of the Economic Espionage Act of 1996 is amended to appear as a paragraph indented 2 ems from the left margin.

(4) SUBSECTION PLACEMENT CORRECTION.—Section 1513 of title 18, United States Code, is amended by transferring subsection (d) so that it appears following subsection (c).

(5) CORRECTION TO ALLOW FOR INSERTION OF NEW SUBPARAGRAPH AND CORRECTION OF ERRONEOUS INDENTATION.—Section 1956(c)(7) of title 18, United States Code, is amended—

(A) in subparagraph (B)(ii), by moving the margin 2 ems to the right;

(B) by striking ''or'' at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting ''; or''; and

(D) in subparagraph (F)—

(i) by striking ''Any'' and inserting ''any''; and

(ii) by striking the period at the end and inserting a semicolon.

(6) CORRECTION OF CONFUSING SUBDIVISION DESIGNATION.—Section 1716 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting ''(j)(1)'' before ''Whoever'';

(B) in the second undesignated paragraph—

(i) by striking ''not more than $10,000'' and inserting ''under this title''; and

(ii) by inserting ''(2)'' at the beginning of that paragraph;

(C) by inserting ''(3)'' at the beginning of the third undesignated paragraph; and

(D) by redesignating subsection (j) as subsection (k).

(7) PUNCTUATION CORRECTION IN SECTION 1091.—Section 1091(b)(1) of title 18, United States Code, is amended by striking ''subsection (a)(1),'' and inserting ''subsection (a)(1)''.

(8) PUNCTUATION CORRECTION IN SECTION 2311.—Section 2311 of title 18, United States Code, is amended by striking the period after ''carcasses thereof'' the second place that term appears and inserting a semicolon.

(9) SYNTAX CORRECTION.—Section 115(b)(2) of title 18, United States Code, is amended by striking '', attempted kidnapping, or conspiracy to kidnap of a person'' and inserting ''or attempted kidnapping of, or a conspiracy to kidnap, a person''.

(10) CORRECTING CAPITALIZATION IN SECTION 982.—Section 982(a)(8) of title 18, United States Code, is amended by striking ''Court'' and inserting ''court''.

(11) PUNCTUATION CORRECTIONS IN SECTION 1029.—Section 1029 of title 18, United States Code, is amended—

(A) in subsection (c)(1)(A)(ii), by striking ''(9),'' and inserting ''(9)''; and

(B) in subsection (e), by adding a semicolon at the end of paragraph (8).

(12) CORRECTIONS OF CONNECTORS AND PUNCTUATION IN SECTION 1030.—Section 1030 of title 18, United States Code, is amended—

(A) by inserting ''and'' at the end of subsection (c)(2)(B)(iii); and

(B) by striking the period at the end of subsection (e)(4)(I) and inserting a semicolon.

(13) CORRECTION OF PUNCTUATION IN SECTION 1032.—Section 1032(1) of title 18, United States Code, is amended by striking ''13,'' and inserting ''13''.

(14) CORRECTION OF PUNCTUATION IN SECTION 1345.—Section 1345(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking '', or'' and inserting ''; or''; and

(B) in subparagraph (C), by striking the period and inserting a semicolon.

(15) CORRECTION OF PUNCTUATION IN SECTION 3612.—Section 3612(f)(2)(B) of title 18, United States Code, is amended by striking ''preceding.'' and inserting ''preceding''.

(16) CORRECTION OF INDENTATION IN CONTROLLED SUBSTANCES ACT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by moving the margin of subparagraph (C) 2 ems to the left.

(c) ELIMINATION OF REDUNDANCIES.—

(1) ELIMINATION OF DUPLICATE AMENDMENTS.—Effective on the date of its enactment, paragraphs (1), (2), and (4) of section 601(b), paragraph (2) of section 601(d), paragraph (2) of section 601(f), paragraphs (1) and (2)(A) of section 601(j), paragraphs (1) and (2) of section 601(k), subsection (d) of section 602, paragraph (4) of section 604(b), subsection (r) of section 605, and paragraph (2) of section 607(j) of the Economic Espionage Act of 1996 are repealed.

(2) ELIMINATION OF EXTRA COMMA.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking ''Code,,'' and inserting ''Code,''; and

(B) by striking ''services),,'' and inserting ''services),''.

(3) REPEAL OF SECTION GRANTING DUPLICATIVE AUTHORITY.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3503.

(4) ELIMINATION OF OUTMODED REFERENCE TO PAROLE.—Section 929(b) of title 18, United States Code, is amended by striking the last sentence.

(d) CORRECTION OF OUTMODED FINE AMOUNTS.—

(1) IN TITLE 18, UNITED STATES CODE.—

(A) IN SECTION 492.—Section 492 of title 18, United States Code, is amended by striking ''not more than $100'' and inserting ''under this title''.

(B) IN SECTION 665.—Section 665(c) of title 18, United States Code, is amended by striking ''a fine of not more than $5,000'' and inserting ''a fine under this title''.

(C) IN SECTIONS 1924, 2075, 2113(b), AND 2236.—

(i) Section 1924(a) of title 18, United States Code, is amended by striking ''not more than $1,000,'' and inserting ''under this title''.

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking ''not more than $1,000'' and inserting ''under this title''.

(iii) Section 2236 of title 18, United States Code, is amended by inserting ''under this title'' after ''warrant, shall be fined'', and by striking ''not more than $1,000''.

(D) IN SECTION 372 AND 752.—Sections 372 and 752(a) of title 18, United States Code, are each amended by striking ''not more than $5,000'' and inserting ''under this title''.

(E) IN SECTION 924(e)(1).—Section 924(e)(1) of title 18, United States Code, is amended by striking ''not more than $25,000'' and inserting ''under this title''.

(2) IN THE CONTROLLED SUBSTANCES ACT.—

(A) IN SECTION 401.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(i) in paragraph (1), by striking ''and shall be fined not more than $10,000'' and inserting ''or fined under title 18, United States Code, or both''; and

(ii) in paragraph (2), by striking ''and shall be fined not more than $20,000'' and inserting ''or fined under title 18, United States Code, or both''.

(B) IN SECTION 402.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended—

(i) in subparagraph (A), by striking ''of not more than $25,000'' and inserting ''under title 18, United States Code''; and

(ii) in subparagraph (B), by striking ''of $50,000'' and inserting ''under title 18, United States Code''.

(C) IN SECTION 403.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(i) by striking ''of not more than $30,000'' each place that term appears and inserting ''under title 18, United States Code''; and

(ii) by striking ''of not more than $60,000'' each place it appears and inserting ''under title 18, United States Code''.

(e) CROSS REFERENCE CORRECTIONS.—

(1) SECTION 3664.—Section 3664(o)(1)(C) of title 18, United States Code, is amended by striking ''section 3664(d)(3)'' and inserting ''subsection (d)(5)''.

(2) CHAPTER 228.—Section 3592(c)(1) of title 18, United States Code, is amended by striking ''section 36'' and inserting ''section 37''.

(3) CORRECTING ERRONEOUS CROSS REFERENCE IN CONTROLLED SUBSTANCES ACT.—Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking ''1822 of the Mail Order Drug Paraphernalia Control Act'' and inserting ''422''.

(4) CORRECTION TO REFLECT CROSS REFERENCE CHANGE MADE BY OTHER LAW.—Effective on the date of its enactment, section 601(c)(3) of the Economic Espionage Act of 1996 is amended by striking ''247(d)'' and inserting ''247(e)''.

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF CHAPTERS.—The item relating to chapter 123 in the table of chapters at the beginning of part I of title 18, United States Code, is amended—

(A) by striking ''2271'' and inserting ''2721''; and

(B) so that the item appears in bold face type.

(6) SECTION 4104.—Section 4104(d) of title 18, United States Code, is amended by striking ''section 3653 of this title and rule 32(f) of'' and inserting ''section 3565 of this title and the applicable provisions of''.

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 583 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (111 Stat. 2436) is amended by striking ''Section 2401'' and inserting ''Section 2441''.

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c) of title 18, United States Code, is amended by striking ''rule 32(c)'' and inserting ''rule 32''.

(9) SECTION 1836.—Section 1836 of title 18, United States Code, is amended—

(A) in subsection (a), by striking ''this section'' and inserting ''this chapter''; and

(B) in subsection (b), by striking ''this subsection'' and inserting ''this section''.

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 119.—Section 2510(10) of title 18, United States Code, is amended by striking ''shall have'' and all that follows through ''United States Code;'' and inserting ''has the meaning given that term in section 3 of the Communications Act of 1934;''.

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2339A.—Section 2339A(a) of title 18, United States Code, is amended by striking ''2332c,''.

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective the date of its enactment, section 115(a)(8)(B) of Public Law 105–119 is amended—

(A) in clause (i)—

(i) by striking ''at the end of'' and inserting ''following''; and

(ii) by striking ''paragraph'' the second place it appears and inserting ''subsection''; and

(B) in clause (ii), by striking ''subparagraph (A)'' and inserting ''clause (i)''.

(f) TABLES OF SECTIONS CORRECTIONS.—

(1) CONFORMING TABLE OF SECTIONS TO HEADING OF SECTION.—The item relating to section 1837 in the table of sections at the beginning of chapter 90 of title 18, United States Code, is amended by striking ''Conduct'' and inserting ''Applicability to conduct''.

*(2) CONFORMING HEADING TO TABLE OF SECTIONS ENTRY.—The heading of section 1920 of title 18, United States Code, is amended by striking ''**Employee's**'' and inserting ''**Employees**''.*

SEC. 4003. ADDITIONAL TECHNICALS.

(a) TITLE 18.—Title 18, United States Code, is amended—

(1) in section 922(t)(1)(C), by striking ''1028(d)(1)'' and inserting ''1028(d)'';

(2) in section 1005—

(A) in the first undesignated paragraph, by striking ''Act,,'' and inserting ''Act,''; and

(B) by inserting ''or'' at the end of the third undesignated paragraph;

(3) in section 1071, by striking ''fine of under this title'' and inserting ''fine under this title'';

(4) in section 1368(a), by inserting ''to'' after ''serious bodily injury'';

(5) in subsections (b)(1) and (c) of section 2252A, by striking ''paragraphs'' and inserting ''paragraph''; and

(6) in section 2254(a)(3), by striking the comma before the period at the end.

(b) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 509(3), by striking the second period;

(2) in section 526—

(A) in the heading, by striking ''**AND**'' before ''**TRUSTEES**''; and

(B) in subsection (a)(1), by striking the second comma after ''marshals'';

(3) in section 529(b)(2), as hereinbefore added, by striking the matter between ''services contract'' and ''made,'' and inserting ''services contract made,'';

(4) in section 534(a)(3), by inserting ''and'' after the semicolon;

(5) in the item relating to section 526 in the table of sections at the beginning of chapter 31, by striking ''and'' before ''trustees'';

(6) in the item relating to chapter 37 in the table of chapters at the beginning of part II, by inserting ''Service'' after ''Marshals'';

(7) in the item relating to section 532 in the table of sections at the beginning of chapter 33, by inserting ''the'' after ''of''; and

(8) in the item relating to section 537 in the table of sections at the beginning of chapter 33, by striking ''nature'' and inserting ''character''.

SEC. 4004. REPEAL OF OUTMODED PROVISIONS.

(a) Section 14 of title 18, United States Code, and the item relating thereto in the table of sections at the beginning of chapter 1 of title 18, United States Code, are repealed.

(b) Section 1261 of such title is amended—

(1) by striking ''(a) The Secretary'' and inserting ''The Secretary''; and

(2) by striking subsection (b).

(c) Section 1821 of such title is amended by striking '', the Canal Zone''.

(d) Section 3183 of such title is amended by striking ''or the Panama Canal Zone,''.

(e) Section 3241 of such title is amended by striking ''United States District Court for the Canal Zone and the''.

(f) Any section of any Act enacted on the antepenultimate day of November 2001, which section provides for any amendment to chapter 31 of title 28, United States Code, is hereby repealed.

SEC. 4005. AMENDMENTS RESULTING FROM PUBLIC LAW 107–56.

(a) MARGIN CORRECTIONS.—

(1) Section 2516(1) of title 18, United States Code, is amended by moving the left margin for subsection (q) 2 ems to the right.

(2) Section 2703(c)(1) of title 18, United States Code, is amended by moving the left margin of subparagraph (E) 2 ems to the left.

(3) Section 1030(a)(5) of title 18, United States Code, is amended by moving the left margin of subparagraph (B) 2 ems to the left.

(b) CORRECTION OF WRONGLY WORDED CLERICAL AMENDMENT.—Effective on the date of its enactment, section 223(c)(2) of Public Law 107–56 is amended to read as follows:

''(2) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by adding at the end the following new item:

''2712. Civil actions against the United States.''.

(c) CORRECTION OF ERRONEOUS PLACEMENT OF AMENDMENT LANGUAGE.—Effective on the date of its enactment, section 225 of Public Law 107–56 is amended—

(1) by striking ''after subsection (g)'' and inserting ''after subsection (h)''; and

(2) by redesignating the subsection added to section 105 of section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) as subsection (i).

(d) PUNCTUATION CORRECTIONS.—

(1) Section 1956(c)(6)(B) of title 18, United States Code, is amended by striking the period and inserting a semicolon.

(2) Effective on the date of its enactment, section 803(a) of Public Law 107–56 is amended by striking the close quotation mark and period that follows at the end of subsection (a) in the matter proposed to be inserted in title 18, United States Code, as a new section 2339.

(3) Section 1030(c)(3)(B) of title 18, United States Code, is amended by inserting a comma after ''(a)(4)''.

(e) ELIMINATION OF DUPLICATE AMENDMENT.—Effective on the date of its enactment, section 805 of Public Law 107–56 is amended by striking subsection (b).

(f) CORRECTION OF UNEXECUTABLE AMENDMENTS.—

(1) Effective on the date of its enactment, section 813(2) of Public Law 107–56 is amended by striking ''semicolon'' and inserting ''period''.

(2) Effective on the date of its enactment, section 815 of Public Law 107–56 is amended by inserting ''a'' before ''statutory authorization''.

(g) CORRECTION OF HEADING STYLE.—The heading for section 175b of title 18, United States Code, is amended to read as follows:

''§ 175b. Possession by restricted persons''.

SEC. 4006. CROSS REFERENCE CORRECTION.

Section 2339C(a)(1) of title 18, United States Code, is amended by striking ''described in subsection (c)'' and inserting ''described in subsection (b)''.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

SEC. 5001. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

(a) STATE APPLICATIONS.—Section 503(a)(13)(A)(iii) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(13)(A)(iii)) is amended by striking ''or the National Association of Medical Examiners,'' and inserting '', the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation,''.

(b) FORENSIC SCIENCES IMPROVEMENT GRANTS.—Part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797j et seq.) is amended—

(1) in section 2801, by inserting after ''States'' the following: '' and units of local government'';

(2) in section 2802—

(A) in the matter before paragraph (1), by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (1), to read as follows:

''(1) a certification that the State or unit of local government has developed a plan for forensic science laboratories under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;'';

(C) in paragraph (2), by inserting ''or appropriate certifying bodies'' before the semicolon; and

(D) in paragraph (3), by inserting ''for a State or local plan'' after ''program'';

(3) in section 2803(a)(2), by striking ''to States with'' and all that follows through the period and inserting ''for competitive awards to States and units of local government. In making awards under this part, the Attorney General shall consider the average annual number of part 1 violent crimes reported by each State to the Federal Bureau of Investigation for the 3 most recent calendar years for which data is available and consider the existing resources and current needs of the potential grant recipient.'';

(4) in section 2804—

(A) in subsection (a), by inserting ''or unit of local government'' after ''A State''; and

(B) in subsection (c)(1), by inserting ''(including grants received by units of local government within a State)'' after ''under this part''; and

(5) in section 2806(a)—

(A) in the matter before paragraph (1), by inserting ''or unit of local government'' after ''each State''; and

(B) in paragraph (1), by inserting before the semicolon the following: '', which shall include a comparison of pre-grant and post-grant forensic science capabilities''

(C) in paragraph (2), by striking ''and'' at the end;

(D) by redesignating paragraph (3) as paragraph (4); and

(E) by inserting after paragraph (2) the following:

''(3) an identification of the number and type of cases currently accepted by the laboratory; and''.

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) such sums as may be necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama;

(2) such sums as may be necessary for the Texas Engineering Extension Service of Texas A&M University;

(3) such sums as may be necessary for the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology;

(4) such sums as may be necessary for the Academy of Counterterrorist Education at Louisiana State University;

(5) such sums as may be necessary for the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site;

(6) such sums as may be necessary for the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and

(7) such sums as may be necessary for the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

SEC. 11001. LAW ENFORCEMENT TRIBUTE ACT.

(a) SHORT TITLE.—This section may be cited as the ''Law Enforcement Tribute Act''.

(b) FINDINGS.—Congress finds the following:

(1) The well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement and public safety personnel.

(2) More than 700,000 law enforcement officers, both men and women, at great risk to their personal safety, serve their fellow citizens as guardians of peace.

(3) Nationwide, 51 law enforcement officers were killed in the line of duty in 2000, according to statistics released by the Federal Bureau of Investigation. This number is an increase of 9 from the 1999 total of 42.

(4) In 1999, 112 firefighters died while on duty, an increase of 21 deaths from the previous year.

(5) Every year, 1 in 9 peace officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty.

(6) In addition, recent statistics indicate that 83 officers were accidentally killed in the performance of their duties in 2000, an increase of 18 from the 65 accidental deaths in 1999.

(7) A permanent tribute is a powerful means of honoring the men and women who have served our Nation with distinction. However, many law enforcement and public safety agencies lack the resources to honor their fallen colleagues.

(c) PROGRAM AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may make grants to States, units of local government, and Indian tribes to carry out programs to honor, through permanent tributes, men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

(d) USES OF FUNDS.—Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used for the purposes specified in subsection (c).

(e) $150,000 LIMITATION.—A grant under this section may not exceed $150,000 to any single recipient.

(f) MATCHING FUNDS.—

(1) The Federal portion of the costs of a program provided by a grant under this section may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement or public safety functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(g) APPLICATIONS.—To request a grant under this section, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(h) ANNUAL REPORT TO CONGRESS.—Not later than November 30 of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this section. Each such report shall include, for the preceding fiscal year, the number of grants funded under this section, the amount of funds provided under those grants, and the activities for which those funds were used.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2002 through 2006.

SEC. 11002. DISCLOSURE OF GRAND JURY MATTERS RELATING TO MONEY LAUNDERING OFFENSES.

Section 3322(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking ''or 1344; or'' and inserting ''1344, 1956, or 1957;'';

(2) in subparagraph (B), by inserting ''or'' after the semicolon; and

(3) by adding at the end the following:

''(C) any provision of subchapter II of chapter 53 of title 31, United States Code;''.

SEC. 11003. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.

(a) TECHNICAL CORRECTIONS.—

(1) OFFICE.—Section 1014(a) of the USA PATRIOT Act (Public Law 107–56) is amended by striking ''Office of State and Local Domestic Preparedness Support'' and inserting ''Office for Domestic Preparedness''.

(2) PERCENT.—Section 1014(c)(3) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting ''not less than'' before ''0.25 percent''.

(b) ADDITIONAL USE OF GRANT AMOUNTS.—Section 1014(b) of the USA PATRIOT Act (Public Law 107–56) is amended by inserting at the end the following: ''In addition, grants under this section may be used to construct, develop, expand, modify, operate, or improve facilities to provide training or assistance to State and local first responders.''.

SEC. 11004. UNITED STATES SENTENCING COMMISSION ACCESS TO NCIC TERMINAL.

Section 534(a) of title 28, United States Code, is amended by striking paragraph (4) and inserting the following:

''(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.''.

SEC. 11005. DANGER PAY FOR FBI AGENTS.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note), is amended by inserting ''or Federal Bureau of Investigation'' after ''Drug Enforcement Administration''.

SEC. 11006. POLICE CORPS.

Subtitle A of title XX of the Violent Crime Control and Law Enforcement Act of 1994, the Police Corps Act (42 U.S.C. 14091 et seq.), is amended—

(1) in section 200106—

(A) in subsection (a)(2)—

(i) in subparagraph (A), by striking ''$7,500'' and inserting ''$10,000'';

(ii) in subparagraph (B), by striking ''$10,000'' and inserting ''$13,333''; and

(iii) in subparagraph (C), by striking ''$30,000'' and inserting ''$40,000''; and

(B) in subsection (b)(2)—

(i) in subparagraph (A), by striking ''$7,500'' and inserting ''$10,000'';

(ii) in subparagraph (B), by striking ''$10,000'' and inserting ''$13,333''; and

(iii) in subparagraph (C), by striking ''$30,000'' and inserting ''$40,000'';

(2) in section 200108, by striking ''$250'' and inserting ''$400'';

(3) in section 20110(2), by striking ''no more than 10 percent'' and inserting ''except with permission of the Director, no more than 25 percent''

(4) by striking section 200111; and

(5) in section 200112, by striking ''fiscal year 2002'' and inserting ''each of fiscal years 2002 through 2005''.

SEC. 11007. RADIATION EXPOSURE COMPENSATION TECHNICAL AMENDMENTS.

(a) IN GENERAL.—The Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

(1) in section 4(b)(1)(C), by inserting '', and that part of Arizona that is north of the Grand Canyon'' after ''Gila'';

(2) in section 4(b)(2)—

(A) by striking ''lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),''; and

(B) by striking ''or liver (except if cirrhosis or hepatitis B is indicated).'' and inserting ''liver (except if cirrhosis or hepatitis B is indicated), or lung.'';

(3) in section 5(a)(1)(A)(ii)(I), by inserting ''or worked for at least 1 year during the period described under clause (i)'' after ''months of radiation'';

(4) in section 5(a)(2)(A), by striking ''an Atomic Energy Commission'' and inserting ''a'';

(5) in section 5(b)(5), by striking ''or lung cancer'';

(6) in section 5(c)(1)(B)(i), by striking ''or lung cancer'';

(7) in section 5(c)(2)(B)(i), by striking ''or lung cancer'';

(8) in section 6(e)—

(A) by striking ''The'' and inserting ''Except as otherwise authorized by law, the''; and

(B) by inserting '', mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill'' after ''radiation in a uranium mine'';

(9) in section 6(i), by striking the second sentence;

(10) in section 6(k), by adding at the end the following: ''Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, the Attorney General shall issue revised regulations to carry out this Act.'';

(11) in section 7, by amending subsection (b) to read as follows:

''(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act.''; and

(12) by adding at the end the following:

''SEC. 14. GAO REPORTS.

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, and every 18 months thereafter, the General Accounting Office shall submit a report to Congress containing a detailed accounting of the administration of this Act by the Department of Justice.

''(b) CONTENTS.—Each report submitted under this section shall include an analysis of—

''(1) claims, awards, and administrative costs under this Act; and

''(2) the budget of the Department of Justice relating to this Act.''.

(b) CONFORMING AMENDMENTS.—Section 3 of the Radiation Exposure Compensation Act Amendments of 2000 (Public Law 106–245) is amended by striking subsection (i).

SEC. 11008. FEDERAL JUDICIARY PROTECTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''Federal Judiciary Protection Act of 2002.''.

(b) ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''three'' and inserting ''8''; and

(2) in subsection (b), by striking ''ten'' and inserting ''20''.

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking ''five'' and inserting ''10''; and

(2) by striking ''three'' and inserting ''6''.

(d) MAILING THREATENING COMMUNICATIONS.—Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''.

(e) AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in paragraph (1)—

(A) any expression of congressional intent regarding the appropriate penalties for the offense;

(B) the range of conduct covered by the offense;

(C) the existing sentences for the offense;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(E) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(F) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

SEC. 11009. JAMES GUELFF AND CHRIS McCURLEY BODY ARMOR ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''James Guelff and Chris McCurley Body Armor Act of 2002''.

(b) FINDINGS.—Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 7,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term ''body armor'' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) LAW ENFORCEMENT AGENCY.—The term ''law enforcement agency'' means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(2) SENSE OF CONGRESS.—It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.—

(1) DEFINITION OF BODY ARMOR.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) The term 'body armor' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.''.

(2) PROHIBITION.—

(A) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

''(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

''(1) a crime of violence (as defined in section 16); or

''(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

''(b) AFFIRMATIVE DEFENSE.—

''(1) IN GENERAL.—It shall be an affirmative defense under this section that—

''(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

''(B) the use and possession by the defendant were limited to the course of such performance.

''(2) EMPLOYER.—In this subsection, the term 'employer' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.''.

(B) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

''931. Prohibition on purchase, ownership, or possession of body armor by violent felons.''.

SEC. 11010. PERSONS AUTHORIZED TO SERVE SEARCH WARRANT.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.''.

SEC. 11011. STUDY ON REENTRY, MENTAL ILLNESS, AND PUBLIC SAFETY.

(a) STUDY.—The Attorney General shall commission a study of offenders, or a sampling of such offenders, with mental illness released from prison or jail in 2 or more jurisdictions, including at least 1 State or local and 1 Federal, to determine the extent to which participation in public benefit programs correlates with successful reentry and improved public safety.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a report detailing the results of the study conducted under subsection (a) with findings that address—

(A) the number of offenders with mental illness released from the prison or jail who qualify for medicaid, SSI, or SSDI;

(B) the number of offenders with mental illness who qualify for medicaid, SSI, or SSDI benefits and who are enrolled in these programs upon release from prison or jail; and

(C) how enrollment in medicaid, SSI, or SSDI affects—

(i) rearrest;

(ii) violation of condition(s) of release;

(iii) reincarceration;

(iv) rehospitalization;

(v) the length of time upon release from prison or jail time to the first contact with a mental health or substance abuse service; and

(vi) the number of contacts with a mental health or substance abuse services within the first 90 days of release; and

(2) any recommendations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as necessary to conduct the study and issue the report required by this section.

SEC. 11012. TECHNICAL AMENDMENT TO OMNIBUS CRIME CONTROL ACT.

Section 802(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended in the first sentence by striking ''U,'' and inserting ''T,''.

SEC. 11013. DEBT COLLECTION IMPROVEMENT.

(a) IN GENERAL.—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund up to 3 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. Such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall be used first, for paying the costs of processing and tracking civil and criminal debt-collection litigation, and, thereafter, for financial systems and for debt-collection-related personnel, administrative, and litigation expenses.

(b) CONFORMING AMENDMENT.—Section 108 of Public Law 103–121 is repealed.

SEC. 11014. SCAAP AUTHORIZATION.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking '', of which'' and all that follows through ''2000'' and inserting ''in fiscal years 2003 and 2004''.

SEC. 11015. USE OF ANNUITY BROKERS IN STRUCTURED SETTLEMENTS.

(a) ESTABLISHMENT AND TRANSMISSION OF LIST OF APPROVED ANNUITY BROKERS.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit such list, and any updates to such list, to all United States Attorneys.

(b) AUTHORITY TO SELECT ANNUITY BROKER FOR STRUCTURED SETTLEMENTS.—In any structured settlement that is not negotiated exclusively through the Civil Division of the Department of Justice, the United States Attorney (or his designee) involved in any settlement negotiations shall have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

SEC. 11016. INS PROCESSING FEES.

The Immigration and Nationality Act of 1953 is amended—

(1) in section 344(c) (8 U.S.C. 1455(c)), by striking ''All'' and inserting ''Except as provided by section 286(q)(2) or any other law, all''; and

(2) in section 286(q)(2) (8 U.S.C. 1356(q)(2)), by inserting '', including receipts for services performed in processing forms I–94, I–94W, and I–68, and other similar applications processed at land border ports of entry,'' after ''subsection''.

SEC. 11017. UNITED STATES PAROLE COMMISSION EXTENSION.

(a) EXTENSION OF THE PAROLE COMMISSION.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to ''fifteen years'' or ''fifteen-year period'' shall be deemed to be a reference to ''eighteen years'' or ''eighteen-year period'', respectively.

(b) STUDY BY ATTORNEY GENERAL.—The Attorney General, not later than 60 days after the enactment of this Act, should establish a committee within the Department of Justice to evaluate the merits and feasibility of transferring the United States Parole Commission's functions regarding the supervised release of District of Columbia offenders to another entity or entities outside the Department of Justice. This committee should consult with the District of Columbia Superior Court and the District of Columbia Court Services and Offender Supervision Agency, and should report its findings and recommendations to the Attorney General. The Attorney General, in turn, should submit to Congress, not later than 18 months after the enactment of this Act, a long-term plan for the most effective and cost-efficient assignment of responsibilities relating to the supervised release of District of Columbia offenders.

(c) SERVICE AS COMMISSIONER.—Notwithstanding section 1 of this legislation, the final clause of the fourth sentence of section 4202 of title 18, United States Code, which begins ''except that'', shall not apply to a person serving as a Commissioner of the United States Parole Commission when this Act takes effect.

SEC. 11018. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) INCREASE IN NUMERICAL LIMITATION ON WAIVERS REQUESTED BY STATES.—Section 214(l)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(B)) is amended by striking ''20;'' and inserting ''30;''.

(b) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''2002.'' and inserting ''2004.''.

(c) TECHNICAL CORRECTION.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended by striking ''214(k):'' and inserting ''214(l):''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if this Act were enacted on May 31, 2002.

SEC. 11019. PRETRIAL DISCLOSURE OF EXPERT TESTIMONY RELATING TO DEFENDANT'S MENTAL CONDITION.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b).

(b) PRETRIAL DISCLOSURE OF EXPERT TESTIMONY.—Rule 16 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (a)(1), by amending subparagraph (G) to read as follows:

''(G) EXPERT WITNESSES.—At the defendant's request, the Government shall give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the Government requests discovery under subdivision (b)(1)(C)(ii) and the defendant complies, the Government shall, at the defendant's request, give to the defendant a written summary of testimony that the Government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant's medical condition. The summary provided under this subparagraph shall describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications.''; and

(2) in subdivision (b)(1), by amending subparagraph (C) to read as follows:

''(C) EXPERT WITNESSES.—The defendant shall, at the Government's request, give to the Government a written summary of any testimony that the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, if—

''(i) the defendant requests disclosure under subdivision (a)(1)(G) and the government complies; or

''(ii) the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition.

This summary shall describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on December 1, 2002.

SEC. 11020. MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the ''Multiparty, Multiforum Trial Jurisdiction Act of 2002''.

(b) MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.—

(1) BASIS OF JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1369. Multiparty, multiforum jurisdiction

''(a) IN GENERAL.—The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have died in the accident at a discrete location, if—

''(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

''(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

''(3) substantial parts of the accident took place in different States.

''(b) LIMITATION OF JURISDICTION OF DISTRICT COURTS.—The district court shall abstain from hearing any civil action described in subsection (a) in which—

''(1) the substantial majority of all plaintiffs are citizens of a single State of which the primary defendants are also citizens; and

''(2) the claims asserted will be governed primarily by the laws of that State.

''(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

''(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

''(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

''(3) the term 'injury' means—

''(A) physical harm to a natural person; and

''(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

''(4) the term 'accident' means a sudden accident, or a natural event culminating in an accident, that results in death incurred at a discrete location by at least 75 natural persons; and

''(5) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

''(d) INTERVENING PARTIES.—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

''(e) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.''.

(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:

''1369. Multiparty, multiforum jurisdiction.''.

(2) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

''(g) A civil action in which jurisdiction of the district court is based upon section 1369 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.''.

(3) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(A) in subsection (e) by striking ''(e) The court to which such civil action is removed'' and inserting ''(f) The court to which a civil action is removed under this section''; and

(B) by inserting after subsection (d) the following new subsection:

''(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

''(A) the action could have been brought in a United States district court under section 1369 of this title; or

''(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

''(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in

the interest of justice, the action should be retained for the determination of damages.

''(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

''(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

''(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1369 of this title for purposes of this section and sections 1407, 1697, and 1785 of this title.

''(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.''.

(4) SERVICE OF PROCESS.—

(A) OTHER THAN SUBPOENAS.—(i) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1697. Service in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(ii) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

''1697. Service in multiparty, multiforum actions.''.

(B) SERVICE OF SUBPOENAS.—(i) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1785. Subpoenas in multiparty, multiforum actions

''When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.''.

(ii) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

''1785. Subpoenas in multiparty, multiforum actions.''.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

SEC. 11021. ADDITIONAL PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by inserting ''St. Clairsville,'' after ''Columbus,''.

SEC. 11022. DIRECT SHIPMENT OF WINE.

(a) CONDITIONS FOR TRANSPORTING CERTAIN WINE.—During any period in which the Federal Aviation Administration has in effect restrictions on airline passengers to ensure safety, the direct shipment of wine shall be permitted from States where wine is purchased from a winery, to another State or the District of Columbia, if—

(1) the wine was purchased while the purchaser was physically present at the winery;

(2) the purchaser of the wine provided the winery verification of legal age to purchase alcohol;

(3) the shipping container in which the wine is shipped is marked to require an adult's signature upon delivery;

(4) the wine is for personal use only and not for resale; and

(5) the purchaser could have carried the wine lawfully into the State or the District of Columbia to which the wine is shipped.

(b) VIOLATIONS.—If any person fails to meet any of the conditions under subsection (a), the attorney general of any State may bring a civil action under the same terms as those set out in section 2 of the Act entitled ''An Act divesting intoxicating liquors of their interstate character in certain cases'', approved March 1, 1913 (commonly known as the ''Webb-Kenyon Act'') (27 U.S.C. 122a).

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, and at 2-year intervals thereafter, the Attorney General of the United States, in consultation with the Administrator of the Federal Aviation Administration, shall prepare and submit to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

SEC. 11023. WEBSTER COMMISSION IMPLEMENTATION REPORT.

(a) IMPLEMENTATION PLAN.—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a plan for implementation of the recommendations of the Commission for Review of FBI Security Programs, dated March 31, 2002, including the costs of such implementation.

(b) ANNUAL REPORTS.—On the date that is 1 year after the submission of the plan described in subsection (a), and for 2 years thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a report on the implementation of such plan.

(c) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of this section, the term ''appropriate Committees of Congress'' means—

(1) the Committees on the Judiciary of the Senate and the House of Representatives;

(2) the Committees on Appropriations of the Senate and the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 11024. FBI POLICE.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''§ 540C. FBI Police

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term ''Director'' means the Director of the Federal Bureau of Investigation.

''(2) FBI BUILDINGS AND GROUNDS.—

''(A) IN GENERAL.—The term ''FBI buildings and grounds'' means—

''(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

''(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

''(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

''(B) INCLUSION.—The term ''FBI buildings and grounds'' includes adjacent streets and sidewalks not to exceed 500 feet from such property.

''(3) FBI POLICE.—The term ''FBI police'' means the permanent police force established under subsection (b).

''(b) ESTABLISHMENT OF FBI POLICE; DUTIES.—

''(1) IN GENERAL.—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

''(2) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

''(3) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

''(4) AUTHORITY.—

''(A) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

''(i) police the FBI buildings and grounds for the purpose of protecting persons and property;

''(ii) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

''(iii) carry firearms as may be required for the performance of duties;

''(iv) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

''(v) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

''(B) EXCEPTION.—The authority and policing powers of FBI police under this paragraph shall not include the service of civil process.

''(5) PAY AND BENEFITS.—

''(A) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

''(B) APPLICATION.—Pay and benefits for the FBI police under subparagraph (A)—

''(i) shall be established by regulation;

''(ii) shall apply with respect to pay periods beginning after January 1, 2003; and

''(iii) shall not result in any decrease in the rates of pay or benefits of any individual.

''(c) AUTHORITY OF METROPOLITAN POLICE FORCE.—This section does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

''540C. FBI police.''.

SEC. 11025. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, with appropriate comments from other components of the Department of Justice, shall submit to Congress a report on the information management and technology programs of the Federal Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information

technology to meet the unique needs of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counterintelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall include consideration of, among other things—

(1) to what extent appropriate key technology management positions in the Federal Bureau of Investigation should be filled by personnel with experience in the commercial sector;

(2) how access to the most sensitive information can be audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) how critical information systems can employ a public key infrastructure to validate both users and recipients of messages or records;

(4) how security features can be tested to meet national information systems security standards;

(5) which employees in the Federal Bureau of Investigation should receive instruction in records and information management policies and procedures relevant to their positions and how frequently they should receive that instruction;

(6) whether and to what extent a reserve should be established for research and development to guide strategic information management and technology investment decisions;

(7) whether administrative requirements for software purchases under $2,000,000 are necessary and could be eliminated;

(8) whether the Federal Bureau of Investigation should contract with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) whether procedures should be implemented to permit procurement of products and services through contracts of other agencies, as necessary; and

(10) whether a systems integration and test center should be established, with the participation of field personnel, to test each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 11026. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms ''investigation'' and ''arrest'' as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) FEDERAL AGENCY COMPLIANCE.—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

SEC. 11027. CRIME-FREE RURAL STATES GRANTS.

(a) SHORT TITLE.—This section may be cited as the ''Crime-Free Rural States Act of 2002''.

(b) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part FF the following new part:

''PART GG—CRIME FREE RURAL STATE GRANTS

''SEC. 2985. GRANT AUTHORITY.

''The Attorney General shall award grants to rural State criminal justice agencies, Byrne agencies, or other agencies as designated by the Governor of that State and approved by the Attorney General, to develop rural States' capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

''SEC. 2986. USE OF FUNDS.

''(a) IN GENERAL.—A capacity building grant shall be used to develop a statewide strategic plan as described in section 2987 to prevent and reduce crime, violence, and substance abuse.

''(b) PERMISSIVE USE.—A rural State may also use its grant to provide training and technical assistance to communities and promote innovation in the development of policies, technologies, and programs to prevent and reduce crime.

''(c) DATA COLLECTION.—A rural State may use up to 5 percent of the grant to assist grant recipients in collecting statewide data related to the costs of crime, violence, and substance abuse for purposes of supporting the statewide strategic plan.

''SEC. 2987. STATEWIDE STRATEGIC PREVENTION PLAN.

''(a) IN GENERAL.—A statewide strategic prevention plan shall be used by the rural State to assist local communities, both directly and through existing State programs and services, in building comprehensive, strategic, and innovative approaches to reducing crime, violence, and substance abuse based on local conditions and needs.

''(b) GOALS.—The plan must contain statewide long-term goals and measurable annual objectives for reducing crime, violence, and substance abuse.

''(c) ACCOUNTABILITY.—The rural State shall be required to develop and report in its plan relevant performance targets and measures for the goals and objectives to track changes in crime, violence, and substance abuse.

''(d) CONSULTATION.—The rural State shall form a State crime free communities commission that includes representatives of State and local government, and community leaders who will provide advice and recommendations on relevant community goals and objectives, and performance targets and measures.

''SEC. 2988. REQUIREMENTS.

''(a) TRAINING AND TECHNICAL ASSISTANCE.—The rural State shall provide training and technical assistance, including through such groups as the National Crime Prevention Council, to assist local communities in developing Crime Prevention Plans that reflect statewide strategic goals and objectives, and performance targets and measures.

''(b) REPORTS.—The rural State shall provide a report on its statewide strategic plan to the Attorney General, including information about—

''(1) involvement of relevant State-level agencies to assist communities in the development and implementation of their Crime Prevention Plans;

''(2) support for local applications for Community Grants; and

''(3) community progress toward reducing crime, violence, and substance abuse.

''(c) CERTIFICATION.—Beginning in the third year of the program, States must certify that the local grantee's project funded under the community grant is generally consistent with statewide strategic goals and objectives, and performance targets and measures.

''SEC. 2989. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated $10,000,000 to carry out this part for each of fiscal years 2003, 2004, and 2005.''.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part FF the following:

''PART GG—CRIME FREE RURAL STATE GRANTS

''Sec. 2985. Grant authority.
''Sec. 2986. Use of funds.
''Sec. 2987. Statewide strategic prevention plan.
''Sec. 2988. Requirements.
''Sec. 2989. Authorization of appropriations.''.

SEC. 11028. MOTOR VEHICLE FRANCHISE CONTRACT DISPUTE RESOLUTION PROCESS.

(a) ELECTION OF ARBITRATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term ''motor vehicle'' has the meaning given such term in section 30102(6) of title 49 of the United States Code; and

(B) the term ''motor vehicle franchise contract'' means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer's motor vehicles.

(2) CONSENT REQUIRED.—Notwithstanding any other provision of law, whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use arbitration to settle such controversy.

(3) EXPLANATION REQUIRED.—Notwithstanding any other provision of law, whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to such contract with a written explanation of the factual and legal basis for the award.

(b) APPLICATION.—Subsection (a) shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

SEC. 11029. HOLDING COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Notwithstanding any other provision of law, during the period beginning on January 1, 2003, through July 1, 2005, the United States District Court for the Southern District of Iowa may—

(1) with the consent of the parties in any case filed in the Eastern Division or the Davenport Division of the Southern District of Iowa, hold court on that case in Rock Island, Illinois; and

(2) summon jurors from the Southern District of Iowa to serve in any case described under paragraph (1).

SEC. 11030. POSTHUMOUS CITIZENSHIP RESTORATION.

(a) SHORT TITLE.—This section may be cited as the ''Posthumous Citizenship Restoration Act of 2002''.

(b) DEADLINE EXTENSION.—Section 329A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1440–1(c)(1)(A)) is amended by striking ''this section,'' and inserting ''the Posthumous Citizenship Restoration Act of 2002,''.

SEC. 11030A. EXTENSION OF H–1B STATUS FOR ALIENS WITH LENGTHY ADJUDICATIONS.

(a) EXEMPTION FROM LIMITATION.—Section 106(a) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

''(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act (8 U.S.C.1101(a)(15)(H)(i)(b)), if 365 days or more have elapsed since the filing of any of the following:

''(1) Any application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)), in a case in which certification is required or used by the alien to obtain status under section 203(b) of such Act (8 U.S.C. 1153(b)).

''(2) A petition described in section 204(b) of such Act (3 U. S.C. 1154(b)) to accord the alien a status under section 203(b) of such Act.''.

(b) EXTENSION OF H–1B WORKER STATUS.—Section 106(b) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

''(b) EXTENSION OF H–1B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made—

''(1) to deny the application described in subsection (a)(1), or, in a case in which such application is granted, to deny a petition described in subsection (a)(2) filed on behalf of the alien pursuant to such grant;

''(2) to deny the petition described in subsection (a)(2); or

''(3) to grant or deny the alien's application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.''.

SEC. 11030B. APPLICATION FOR NATURALIZATION BY ALTERNATIVE APPLICANT IF CITIZEN PARENT HAS DIED.

Section 322(a) of the Immigration and Nationality Act (8 U.S.C. 1433(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ''(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)'' after ''citizen of the United States''; and

(B) by striking ''such parent'' and inserting ''such applicant'';

(2) in paragraph (1), by inserting ''(or, at the time of his or her death, was)'' after ''parent'';

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting ''(or, at the time of his or her death, had)'' after ''has''; and

(B) in subparagraph (B), by inserting ''(or, at the time of his or her death, had)'' after ''has'' the first place such term appears;

(4) by amending paragraph (4), to read as follows:

''(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).''; and

(5) by adding at the end the following:

''(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.''.

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

SEC. 11031. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—In lieu of the provisions of section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)), subsection (c) shall apply in the case of an eligible alien described in subsection (b)(1).

(b) ELIGIBLE ALIENS DESCRIBED.—

(1) IN GENERAL.—An alien is an eligible alien described in this subsection if the alien—

(A) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(B) pursuant to such approval, obtained the status of an alien entrepreneur with permanent resident status on a conditional basis described in section 216A of such Act (8 U.S.C. 1186b); and

(C) timely filed, in accordance with section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) and before the date of the enactment of this Act, a petition requesting the removal of such conditional basis.

(2) REOPENING PETITIONS PREVIOUSLY DENIED.—

(A) IN GENERAL.—In the case of a petition described in paragraph (1)(C) that was denied under section 216A(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)(C)) before the date of the enactment of this Act, upon a motion to reopen such petition filed by the eligible alien not later than 60 days after such date, the Attorney General shall make determinations on such petition pursuant to subsection (c).

(B) PETITIONERS ABROAD.—In the case of such an eligible alien who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain the determinations under subsection (c), unless the Attorney General finds that—

(i) the alien is inadmissible or deportable on any ground; or

(ii) the petition described in paragraph (1)(C) was denied on the ground that it contains a material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise.

(C) DEPORTATION OR REMOVAL PROCEEDINGS.—In the case of such an eligible alien who was placed in deportation or removal proceedings by reason of the denial of the petition described in paragraph (1)(C), a motion to reopen filed under subparagraph (A) shall be treated as a motion to reopen such proceedings. The Attorney General shall grant such motion notwithstanding any time and number limitations imposed by law on motions to reopen such proceedings, except that the scope of any proceeding reopened on this basis shall be limited to whether any order of deportation or removal should be vacated, and the alien granted the status of an alien lawfully admitted for permanent residence (unconditionally or on a conditional basis), by reason of the determinations made under subsection (c). An alien who is inadmissible or deportable on any ground shall not be granted such status, except that this prohibition shall not apply to an alien who has been paroled into the United States under subparagraph (B).

(c) DETERMINATIONS ON PETITIONS.—

(1) INITIAL DETERMINATION.—

(A) IN GENERAL.—With respect to each eligible alien described in subsection (b)(1), the Attorney General shall make a determination, not later than 180 days after the date of the enactment of this Act, whether—

(i) the petition described in subsection (b)(1)(C) contains any material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation);

(ii) subject to subparagraphs (B) and (C), such enterprise created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on any of the dates described in subparagraph (D); and

(iii) on any of the dates described in subparagraph (D), the alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(B) INVESTMENT UNDER PILOT IMMIGRATION PROGRAM.—For purposes of subparagraph (A)(ii), an investment that satisfies the requirements of section 610(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), as in effect on the date of the enactment of this Act, shall be deemed to satisfy the requirements of such subparagraph.

(C) EXCEPTION FOR TROUBLED BUSINESSES.—In the case of an eligible alien who has made a capital investment in a troubled business (as defined in 8 CFR 204.6(e), as in effect on the date of the enactment of this Act), in lieu of the determination under subparagraph (A)(ii), the Attorney General shall determine whether the number of employees of the business, as measured on any of the dates described in subparagraph (D), is at no less than the pre-investment level.

(D) DATES.—The dates described in this subparagraph are the following:

(i) The date on which the petition described in subsection (b)(1)(C) is filed.

(ii) 6 months after the date described in clause (i).

(iii) The date on which the determination under subparagraph (A) or (C) is made.

(E) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (A), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(F) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination with respect to clause (i), (ii), or (iii) of subparagraph (A), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(ii) CONTINUATION OF CONDITIONAL BASIS IF CERTAIN ADVERSE DETERMINATIONS.—If the Attorney General renders an adverse determination with respect to clause (ii) or (iii) of subparagraph (A), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) for a 2-year period.

(iii) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General renders an adverse determination with respect to subparagraph (A)(i), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—An alien may seek administrative review of an adverse determination made under subparagraph (A) by filing a petition for such review with the Board of Immigration Appeals. If the Board of Immigration Appeals denies the petition, the alien may seek judicial review. The procedures for judicial review under this clause shall be the same as the procedures for judicial review of a final order of removal under section 242(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(1)). During the period in which an administrative or judicial appeal under this clause is pending, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(2) SECOND DETERMINATION.—

(A) AUTHORIZATION TO CONSIDER INVESTMENTS IN OTHER COMMERCIAL ENTERPRISES.—In determining under this paragraph whether to remove a conditional basis continued under paragraph (1)(F)(ii) with respect to an alien, the Attorney General shall consider any capital investment made by the alien in a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation), in the United States, regardless of whether that investment was made before or after the determinations under paragraph (1) and regardless of whether the commercial enterprise is the same as that considered in the determinations under such paragraph, if facts and information with respect to the investment and the enterprise are included in the petition submitted under subparagraph (B).

(B) PETITION.—In order for a conditional basis continued under paragraph (1)(F)(ii) for an eligible alien (and the alien's spouse and children) to be removed, the alien must submit to the Attorney General, during the period described in subparagraph (C), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) which the alien desires to have considered under this paragraph, regardless of whether such enterprise was created before or after the determinations made under paragraph (1).

(C) PERIOD FOR FILING PETITION.—

(i) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in clause (ii), the petition under subparagraph (B) must be filed during the 90-day period before the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in clause (i).

(D) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION.—

(i) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under paragraph (1)(F)(ii), if no petition is filed with respect to the alien in accordance with subparagraph (B), the Attorney General shall terminate the permanent resident status of the alien (and the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) HEARING IN REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under clause (i), the burden of proof shall be on the alien to establish compliance with subparagraph (B).

(E) DETERMINATIONS AFTER PETITION.—If a petition is filed by an eligible alien in accordance with subparagraph (B), the Attorney General shall make a determination, within 90 days of the date of such filing, whether—

(i) the petition contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in such petition;

(ii) all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist on the date on which the determination is made, except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(ii);

(II) the provisions of subparagraphs (B) and (C) of paragraph (1) shall apply to a determination under this clause in the same manner as they apply to a determination under paragraph (1)(A)(ii); and

(III) if the Attorney General determined under paragraph (1)(A)(ii) that any jobs satisfying the requirement of such paragraph were created, the number of those jobs shall be subtracted from the number of jobs otherwise needed to satisfy the requirement of this clause; and

(iii) considering all such enterprises together, on the date on which the determination is made, the eligible alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(iii); and

(II) if the Attorney General determined under paragraph (1)(A)(iii) that any capital amount was invested that could be credited towards compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), such amount shall be subtracted from the amount of capital otherwise needed to satisfy the requirement of this clause.

(F) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (E), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(G) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) TERMINATION IF ADVERSE DETERMINATION.—If the eligible alien's rebuttal does not cause the Attorney General to reverse each adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(d) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1)(F)(iii) or (2)(G)(ii) of subsection (c) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Attorney General.

(e) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who obtained the status of an alien lawfully admitted for permanent residence on a conditional basis before the date of the enactment of this Act by virtue of being the child of an eligible alien described in subsection (b)(1), the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after obtaining such status.

(f) DEFINITION OF FULL-TIME.—For purposes of this section, the term ''full-time'' means a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.

SEC. 11032. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) IN GENERAL.—With respect to each eligible alien described in subsection (b), the Attorney General or the Secretary of State shall approve the application described in subsection (b)(2) and grant the alien (and any spouse or child of the alien, if the spouse or child is eligible to receive a visa under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d))) the status of an alien lawfully admitted for permanent residence on a conditional basis under section 216A of such Act (8 U.S.C. 1186b). Such application shall be approved not later than 180 days after the date of the enactment of this Act.

(b) ELIGIBLE ALIENS DESCRIBED.—An alien is an eligible alien described in this subsection if the alien—

(1) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(2) pursuant to such approval, timely filed before the date of the enactment of this Act an application for adjustment of status under section 245 of such Act (8 U.S.C. 1255) or an application for an immigrant visa under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)); and

(3) is not inadmissible or deportable on any ground.

(c) TREATMENT OF CERTAIN APPLICATIONS.—

(1) REVOCATION OF APPROVAL OF PETITIONS.—If the Attorney General revoked the approval of a petition described in subsection (b)(1), such revocation shall be disregarded for purposes of this section if it was based on a determination that the alien failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)).

(2) APPLICATIONS NO LONGER PENDING.—

(A) IN GENERAL.—If an application described in subsection (b)(2) is not pending on the date of the enactment of this Act, the Attorney General shall disregard the circumstances leading to such lack of pendency and treat it as reopened, if such lack of pendency is due to a determination that the alien—

(i) failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)); or

(ii) departed the United States without advance parole.

(B) APPLICANTS ABROAD.—In the case of an eligible alien who filed an application for adjustment of status described in subsection (b)(2), but who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain adjustment of status under this section.

(d) RECORDATION OF DATE; REDUCTION OF NUMBERS.—Upon the approval of an application under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence on a conditional basis as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1151(d) and 1153(b)(5)) for the fiscal year then current.

(e) REMOVAL OF CONDITIONAL BASIS.—

(1) PETITION.—In order for a conditional basis established under this section for an alien (and the alien's spouse and children) to be removed, the alien must satisfy the requirements of section 216A(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)), including the submission of a petition in accordance with subparagraph (A) of such section. Such petition may include the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) in the United States in which the alien has made a capital investment at any time.

(2) DETERMINATION.—In carrying out section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)) with respect to an alien described in paragraph (1), the Attorney General, in lieu of the determination described in such section 216A(c)(3), shall make a determination, within 90 days of the date of such filing, whether—

(A) the petition described in paragraph (1) contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in the petition;

(B) subject to subparagraphs (B) and (C) of section 11031(c)(1), all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on either of the dates described in paragraph (3); and

(C) considering the alien's investments in such enterprises on either of the dates described in paragraph (3), or on both such dates, the alien is or was in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(3) DATES.—The dates described in this paragraph are the following:

(A) The date on which the application described in subsection (b)(2) was filed.

(B) The date on which the determination under paragraph (2) is made.

(f) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who was a child on the date on which the application described in subsection (b)(2) was filed, the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after such date.

SEC. 11033. REGULATIONS.

The Immigration and Naturalization Service shall promulgate regulations to implement this chapter not later than 120 days after the date of enactment of this Act. Until such regulations are promulgated, the Attorney General shall not deny a petition filed or pending under section 216A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)(A)) that relates to an eligible alien described in section 11031, or on an application filed or pending under section 245 of such Act (8 U.S.C. 1255) that relates to an eligible alien described in section 11032. Until such regulations are promulgated, the Attorney General shall not initiate or proceed with removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) that relate to an eligible alien described in section 11031 or 11032.

SEC. 11034. DEFINITIONS.

Except as otherwise provided, the terms used in this chapter shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)).

CHAPTER 2—AMENDMENTS TO OTHER LAWS

SEC. 11035. DEFINITION OF "FULL-TIME EMPLOYMENT".

Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

''(D) FULL-TIME EMPLOYMENT DEFINED.—In this paragraph, the term 'full-time employment' means employment in a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.''.

SEC. 11036. ELIMINATING ENTERPRISE ESTABLISHMENT REQUIREMENT FOR ALIEN ENTREPRENEURS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT CREATION.—Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''enterprise—'' and inserting ''enterprise (including a limited partnership)—'';

(B) by striking clause (i); and

(C) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(2) in subparagraph (B)(i), by striking ''establish'' and inserting ''invest in''.

(b) CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A) by striking ''establishment of'' and inserting ''investment in''; and

(B) by amending subparagraph (B) to read as follows:

''(B)(i) the alien did not invest, or was not actively in the process of investing, the requisite capital; or

''(ii) the alien was not sustaining the actions described in clause (i) throughout the period of the alien's residence in the United States; or'';

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

''(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that the alien—

''(A)(i) invested, or is actively in the process of investing, the requisite capital; and

''(ii) sustained the actions described in clause (i) throughout the period of the alien's residence in the United States; and

''(B) is otherwise conforming to the requirements of section 203(b)(5).''; and

(3) by adding at the end of subsection (f) the following:

''(3) The term 'commercial enterprise' includes a limited partnership.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens having any of the following petitions pending on or after the date of the enactment of this Act:

(1) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(2) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

SEC. 11037. AMENDMENTS TO PILOT IMMIGRATION PROGRAM FOR REGIONAL CENTERS TO PROMOTE ECONOMIC GROWTH.

(a) PURPOSE OF PROGRAM.—Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), is amended—

(1) by inserting after ''regional center in the United States'' the following: '', designated by

the Attorney General on the basis of a general proposal,'';

(2) by striking ''and increased domestic'' and inserting ''or increased domestic''; and

(3) by adding at the end the following:

''A regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result of such capital investments, and the other positive economic effects such capital investments will have.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any proposal for a regional center pending before the Attorney General (whether for an initial decision or on appeal) on or after the date of the enactment of this Act; and

(2) any of the following petitions, if filed on or after the date of the enactment of this Act:

(A) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision)(or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(B) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien's permanent resident status.

Subtitle C—Judicial Improvements Act of 2002

SEC. 11041. SHORT TITLE.

This subtitle may be cited as the ''Judicial Improvements Act of 2002''.

SEC. 11042. JUDICIAL DISCIPLINE PROCEDURES.

(a) IN GENERAL.—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

''CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

''Sec.
''351. Complaints; judge defined.
''352. Review of complaint by chief judge.
''353. Special committees.
''354. Action by judicial council.
''355. Action by Judicial Conference.
''356. Subpoena power.
''357. Review of orders and actions.
''358. Rules.
''359. Restrictions.
''360. Disclosure of information.
''361. Reimbursement of expenses.
''362. Other provisions and rules not affected.
''363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.
''364. Effect of felony conviction.

''§ 351. Complaints; judge defined

''(a) FILING OF COMPLAINT BY ANY PERSON.—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

''(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

''(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

''(d) DEFINITIONS.—In this chapter—

''(1) the term 'judge' means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

''(2) the term 'complainant' means the person filing a complaint under subsection (a) of this section.

''§ 352. Review of complaint by chief judge

''(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

''(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

''(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

''(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

''(1) dismiss the complaint—

''(A) if the chief judge finds the complaint to be—

''(i) not in conformity with section 351(a);

''(ii) directly related to the merits of a decision or procedural ruling; or

''(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

''(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

''(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events. The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

''(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge's order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

''(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

''§ 353. Special committees

''(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

''(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

''(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

''(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

''(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

''(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit.

''§ 354. Action by judicial council

''(a) ACTIONS UPON RECEIPT OF REPORT.—

''(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

''(A) may conduct any additional investigation which it considers to be necessary;

''(B) may dismiss the complaint; and

''(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

''(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

''(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

''(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

''(ii) censuring or reprimanding such judge by means of private communication; and

''(iii) censuring or reprimanding such judge by means of public announcement.

''(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

''(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

''(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

''(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

''(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

''(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

''(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

''(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

''(b) REFERRAL TO JUDICIAL CONFERENCE.—

''(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

''(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge appointed to hold office during good behavior may have engaged in conduct—

''(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

''(B) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

''(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

''§ 355. Action by Judicial Conference

''(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

''(b) IF IMPEACHMENT WARRANTED.—

''(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

''(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

''§ 356. Subpoena power

''(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

''(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

''§ 357. Review of orders and actions

''(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

''(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

''(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

''§ 358. Rules

''(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

''(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

''(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

''(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

''(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

''(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter.

''§ 359. Restrictions

''(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

''(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

''§ 360. Disclosure of information

''(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

''(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

''(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

''(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

''(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

''§ 361. Reimbursement of expenses

''Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

''§ 362. Other provisions and rules not affected

''Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

''§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

''The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such court shall have the powers granted to a judicial council under this chapter.

''§ 364. Effect of felony conviction

''In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

''(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

''(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States

Code, is amended by inserting after the item relating to chapter 15 the following new item:

"16. Complaints against judges and judicial discipline ..... 351".

SEC. 11043. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

*(A) in the section caption by striking "**; judicial discipline**"; and*

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking "; judicial discipline".

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking "section 372(c)" each place it appears and inserting "chapter 16".

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking "section 372(c) of this title" and inserting "chapter 16 of this title"; and

(B) by striking "372(c)(4)" and inserting "353"; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28, United States Code, is amended by striking "section 372(c)" and inserting "chapter 16".

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking "372(c)(11)" and inserting "358"; and

(B) in subparagraph (C), by striking "372(c)(15)" and inserting "360(b)"; and

(2) in subsection (h)—

(A) in paragraph (1), by striking "section 372" each place it appears and inserting "chapter 16"; and

(B) in paragraph (2), by striking "section 372(c)" and inserting "chapter 16".

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "section 372(c)" and inserting "chapter 16"; and

(B) by striking "such section" and inserting "such chapter";

(2) in paragraph (2)—

(A) in the first sentence, by striking "paragraphs (7) through (15) of section 372(c)" and inserting "sections 354(b) through 360"; and

(B) in the second sentence, by striking "paragraph (7) or (8) of section 372(c)" and inserting "section 354(b) or 355"; and

(3) in paragraph (3)(B), by striking "372(c)(16)" and inserting "361".

SEC. 11044. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Subtitle D—Antitrust Modernization Commission Act of 2002

SEC. 11051. SHORT TITLE.

This subtitle may be cited as the "Antitrust Modernization Commission Act of 2002".

SEC. 11052. ESTABLISHMENT.

There is established the Antitrust Modernization Commission (in this subtitle referred to as the "Commission").

SEC. 11053. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to examine whether the need exists to modernize the antitrust laws and to identify and study related issues;

(2) to solicit views of all parties concerned with the operation of the antitrust laws;

(3) to evaluate the advisability of proposals and current arrangements with respect to any issues so identified; and

(4) to prepare and to submit to Congress and the President a report in accordance with section 11058.

SEC. 11054. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(1) Four members, no more than 2 of whom shall be of the same political party, shall be appointed by the President. The President shall appoint members of the opposing party only on the recommendation of the leaders of Congress from that party.

(2) Two members shall be appointed by the majority leader of the Senate.

(3) Two members shall be appointed by the minority leader of the Senate.

(4) Two members shall be appointed by the Speaker of the House of Representatives.

(5) Two members shall be appointed by the minority leader of the House of Representatives.

(b) INELIGIBILITY FOR APPOINTMENT.—Members of Congress shall be ineligible for appointment to the Commission.

(c) TERM OF APPOINTMENT.—

(1) IN GENERAL.—Subject to paragraph (2), members of the Commission shall be appointed for the life of the Commission.

(2) EARLY TERMINATION OF APPOINTMENT.—If a member of the Commission who is appointed to the Commission as—

(A) an officer or employee of a government ceases to be an officer or employee of such government; or

(B) an individual who is not an officer or employee of a government becomes an officer or employee of a government;

then such member shall cease to be a member of the Commission on the expiration of the 90-day period beginning on the date such member ceases to be such officer or employee of such government, or becomes an officer or employee of a government, as the case may be.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(e) APPOINTMENT DEADLINE.—Initial appointments under subsection (a) shall be made not later than 60 days after the date of enactment of this Act.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson. The first meeting of the Commission shall be held not later than 30 days after the date on which all members of the Commission are first appointed under subsection (a) or funds are appropriated to carry out this subtitle, whichever occurs later.

(g) VACANCY.—A vacancy on the Commission shall be filled in the same manner as the initial appointment is made.

(h) CONSULTATION BEFORE APPOINTMENT.—Before appointing members of the Commission, the President, the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall consult with each other to ensure fair and equitable representation of various points of view in the Commission.

(i) CHAIRPERSON; VICE CHAIRPERSON.—The President shall select the chairperson of the Commission from among its appointed members. The leaders of Congress from the opposing party of the President shall select the vice chairperson of the Commission from among its remaining members.

SEC. 11055. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by a government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time, for each day (including travel time) during which such member is engaged in the actual performance of duties of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of a government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Commission.

(b) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

SEC. 11056. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairperson of the Commission may, without regard to the provisions of chapter 51 of title 5 of the United States Code (relating to appointments in the competitive service), appoint and terminate an executive director and such other staff as are necessary to enable the Commission to perform its duties. The appointment of an executive director shall be subject to approval by the Commission.

(2) COMPENSATION.—The chairperson of the Commission may fix the compensation of the executive director and other staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code (relating to classification of positions and General Schedule pay rates), except that the rate of pay for the executive director and other staff may not exceed the rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

SEC. 11057. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission, or a member of the Commission if authorized by the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers to be appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or such member.

(b) OFFICIAL DATA.—The Commission may obtain directly from any executive agency (as defined in section 105 of title 5 of the United States Code) or court information necessary to enable it to carry out its duties under this subtitle. On the request of the chairperson of the Commission, and consistent with any other law, the head of an executive agency or of a Federal court shall provide such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. On request of the Commission, the head of an executive agency may make any of the facilities or services of such agency available to the Commission, on a reimbursable or nonreimbursable basis, to assist the Commission in carrying out its duties under this subtitle.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or such member considers to be appropriate for the purpose of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

SEC. 11058. REPORT.

Not later than 3 years after the first meeting of the Commission, the Commission shall submit to Congress and the President a report containing a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative or administrative action the Commission considers to be appropriate.

SEC. 11059. TERMINATION OF COMMISSION.

The Commission shall cease to exist 30 days after the date on which the report required by section 8 is submitted.

SEC. 11060. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $4,000,000 to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the ''Consequences for Juvenile Offenders Act of 2002''.

SEC. 12102. JUVENILE OFFENDER ACCOUNTABILITY.

(a) GRANT PROGRAM.—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended to read as follows:

''PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

''SEC. 1801. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specially qualified units.

''(b) AUTHORIZED ACTIVITIES.—Amounts paid to a State or a unit of local government under this part shall be used by the State or unit of local government for the purpose of strengthening the juvenile justice system, which includes—

''(1) developing, implementing, and administering graduated sanctions for juvenile offenders;

''(2) building, expanding, renovating, or operating temporary or permanent juvenile correction, detention, or community corrections facilities;

''(3) hiring juvenile court judges, probation officers, and court-appointed defenders and special advocates, and funding pretrial services (including mental health screening and assessment) for juvenile offenders, to promote the effective and expeditious administration of the juvenile justice system;

''(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and case backlogs reduced;

''(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively and for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

''(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

''(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearms offenders;

''(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

''(9) establishing and maintaining a system of juvenile records designed to promote public safety;

''(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

''(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

''(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

''(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

''(14) establishing and maintaining restorative justice programs;

''(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; or

''(16) hiring detention and corrections personnel, and establishing and maintaining training programs for such personnel to improve facility practices and programming.

''(c) DEFINITION.—In this section the term 'restorative justice program' means a program that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

''SEC. 1801A. TRIBAL GRANT PROGRAM AUTHORIZED.

''(a) IN GENERAL.—From the amount reserved under section 1810(b), the Attorney General shall make grants to Indian tribes for programs to strengthen tribal juvenile justice systems and to hold tribal youth accountable.

''(b) ELIGIBILITY.—Indian tribes, as defined by section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a), or a consortia of such tribes, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. Only tribes that carry out tribal juvenile justice functions shall be eligible to receive a grant under this section.

''(c) AWARDS.—The Attorney General shall award grants under this section on a competitive basis.

''(d) GUIDELINES.—The Attorney General shall issue guidelines establishing application, use, and award criteria and processes consistent with the purposes and requirements of this Act.

''SEC. 1802. GRANT ELIGIBILITY.

''(a) STATE ELIGIBILITY.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

''(1) information about—

''(A) the activities proposed to be carried out with such grant; and

''(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

''(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the State submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

''(b) LOCAL ELIGIBILITY.—

''(1) SUBGRANT ELIGIBILITY.—To be eligible to receive a subgrant, a unit of local government, other than a specially qualified unit, shall provide to the State—

''(A) information about—

''(i) the activities proposed to be carried out with such subgrant; and

''(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

''(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (c).

''(2) SPECIAL RULE.—The requirements of paragraph (1) shall apply to a specially qualified unit that receives funds from the Attorney General under section 1803(e), except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

''(c) ROLE OF COURTS.—In the development of the grant application, the States and units of local governments shall take into consideration the needs of the judicial branch in strengthening the juvenile justice system and specifically seek the advice of the chief of the highest court of the State and where appropriate, the chief judge of the local court, with respect to the application.

''(d) GRADUATED SANCTIONS.—A system of graduated sanctions, which may be discretionary as provided in subsection (e), shall ensure, at a minimum, that—

''(1) sanctions are imposed on a juvenile offender for each delinquent offense;

''(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

''(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

''(4) appropriate consideration is given to public safety and victims of crime.

''(e) DISCRETIONARY USE OF SANCTIONS.—

''(1) VOLUNTARY PARTICIPATION.—A State or unit of local government may be eligible to receive a grant under this part if—

''(A) its system of graduated sanctions is discretionary; and

''(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

''(2) REPORTING REQUIREMENT IF GRADUATED SANCTIONS NOT USED.—

''(A) JUVENILE COURTS.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

''(i) which has not implemented a system of graduated sanctions, to submit an annual report that explains why such court did not implement graduated sanctions; and

''(ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

''(B) UNITS OF LOCAL GOVERNMENT.—Each unit of local government, other than a specially

qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

''(C) STATES.—Each State and specially qualified unit that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

''(f) DEFINITIONS.—In this section:

''(1) DISCRETIONARY.—The term 'discretionary' means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

''(2) SANCTIONS.—The term 'sanctions' means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

"SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

''(a) STATE ALLOCATION.—

''(1) IN GENERAL.—In accordance with regulations promulgated pursuant to this part and except as provided in paragraph (3), the Attorney General shall allocate—

''(A) 0.50 percent for each State; and

''(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

''(2) PROHIBITION.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

''(b) LOCAL DISTRIBUTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 1801, not less than 75 percent of such amounts received.

''(2) WAIVER.—If a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

''(A) the State's juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this part (the 'State percentage') is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

''(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State's calculation of expenditures under subparagraph (A), the State's application for waiver under this paragraph, and the State's proposed uses of funds.

''(3) ALLOCATION.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

''(A) the sum of—

''(i) the product of—

''(I) three-quarters; multiplied by

''(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

''(ii) the product of—

''(I) one-quarter; multiplied by

''(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

''(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

''(4) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (3) for a payment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

''(5) REALLOCATION.—The amount of any unit of local government's allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

''(c) UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

''(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

''(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

''(d) LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN $10,000.—If under this section a unit of local government is allocated less than $10,000 for a payment period, the amount allotted shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

''(e) DIRECT GRANTS TO SPECIALLY QUALIFIED UNITS.—

''(1) IN GENERAL.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 1802.

''(2) AWARD BASIS.—In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

"SEC. 1804. GUIDELINES.

''(a) IN GENERAL.—The Attorney General shall issue guidelines establishing procedures under which a State or specifically qualified unit of local government that receives funds under section 1803 is required to provide notice to the Attorney General regarding the proposed use of funds made available under this part.

''(b) ADVISORY BOARD.—

''(1) IN GENERAL.—The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to recommend a coordinated enforcement plan for the use of such funds.

''(2) MEMBERSHIP.—The board shall include representation from, if appropriate—

''(A) the State or local police department;

''(B) the local sheriff's department;

''(C) the State or local prosecutor's office;

''(D) the State or local juvenile court;

''(E) the State or local probation office;

''(F) the State or local educational agency;

''(G) a State or local social service agency;

''(H) a nonprofit, nongovernmental victim advocacy organization; and

''(I) a nonprofit, religious, or community group.

"SEC. 1805. PAYMENT REQUIREMENTS.

''(a) TIMING OF PAYMENTS.—The Attorney General shall pay to each State or specifically qualified unit of local government that receives funds under section 1803 that has submitted an application under this part the amount awarded to such State or unit of local government not later than the later of—

''(1) the date that is 180 days after the date that the amount is available; or

''(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

''(b) REPAYMENT OF UNEXPENDED AMOUNTS.—

''(1) REPAYMENT REQUIRED.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month period beginning on the date of the award, any amount that is not expended by such State or unit.

''(2) EXTENSION.—The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

''(3) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

''(4) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

''(c) ADMINISTRATIVE COSTS.—A State or unit of local government that receives funds under this part may use not more than 5 percent of such funds to pay for administrative costs.

''(d) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

''(e) MATCHING FUNDS.—

''(1) IN GENERAL.—The Federal share of a grant received under this part may not exceed 90 percent of the total program costs.

''(2) CONSTRUCTION OF FACILITIES.—Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this part may not exceed 50 percent of approved cost.

"SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

''Funds or a portion of funds allocated under this part may be used by a State or unit of local government that receives a grant under this part to contract with private, nonprofit entities, or community-based organizations to carry out the purposes specified under section 1801(b).

"SEC. 1807. ADMINISTRATIVE PROVISIONS.

''(a) IN GENERAL.—A State or specially qualified unit that receives funds under this part shall—

''(1) establish a trust fund in which the government will deposit all payments received under this part;

''(2) use amounts in the trust fund (including interest) during the period specified in section 1805(b)(1) and any extension of that period under section 1805(b)(2);

''(3) designate an official of the State or specially qualified unit to submit reports as the Attorney General reasonably requires, in addition to the annual reports required under this part; and

''(4) spend the funds only for the purpose of strengthening the juvenile justice system.

''(b) TITLE I PROVISIONS.—Except as otherwise provided, the administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

"SEC. 1808. ASSESSMENT REPORTS.

''(a) REPORTS TO ATTORNEY GENERAL.—

''(1) IN GENERAL.—Except as provided in paragraph (4), for each fiscal year for which a grant

or subgrant is awarded under this part, each State or specially qualified unit of local government that receives such a grant shall submit to the Attorney General a grant report, and each unit of local government that receives such a subgrant shall submit to the State a subgrant report, at such time and in such manner as the Attorney General may reasonably require.

''(2) GRANT REPORT.—Each grant report required by paragraph (1) shall include—

''(A) a summary of the activities carried out with such grant;

''(B) if such activities included any subgrant, a summary of the activities carried out with each such subgrant; and

''(C) an assessment of the effectiveness of such activities on achieving the purposes of this part.

''(3) SUBGRANT REPORT.—Each subgrant report required by paragraph (1) shall include—

''(A) a summary of the activities carried out with such subgrant; and

''(B) an assessment of the effectiveness of such activities on achieving the purposes of this part.

''(4) WAIVERS.—The Attorney General may waive the requirement of an assessment in paragraph (2)(C) for a State or specially qualified unit of local government, or in paragraph (3)(B) for a unit of local government, if the Attorney General determines that—

''(A) the nature of the activities are such that assessing their effectiveness would not be practical or insightful;

''(B) the amount of the grant or subgrant is such that carrying out the assessment would not be an effective use of those amounts; or

''(C) the resources available to the State or unit are such that carrying out the assessment would pose a financial hardship on the State or unit.

''(b) REPORTS TO CONGRESS.—Not later than 90 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to Congress a report, which shall include—

''(1) a summary of the information provided under subsection (a);

''(2) an assessment by the Attorney General of the grant program carried out under this part; and

''(3) such other information as the Attorney General considers appropriate.

''SEC. 1809. DEFINITIONS.

''In this part:

''(1) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means—

''(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

''(B) any law enforcement district or judicial enforcement district that—

''(i) is established under applicable State law; and

''(ii) has the authority, in a manner independent of other State entities, to establish a budget and raise revenues; and

''(C) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

''(2) SPECIALLY QUALIFIED UNIT.—The term 'specially qualified unit' means a unit of local government which may receive funds under this part only in accordance with section 1803(e).

''(3) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that—

''(A) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands (the 'partial States') shall collectively be considered as 1 State; and

''(B) for purposes of section 1803(a), the amount allocated to a partial State shall bear the same proportion to the amount collectively allocated to the partial States as the population of the partial State bears to the collective population of the partial States.

''(4) JUVENILE.—The term 'juvenile' means an individual who is 17 years of age or younger.

''(5) JUVENILE JUSTICE EXPENDITURES.—The term 'juvenile justice expenditures' means expenditures in connection with the juvenile justice system, including expenditures in connection with such system to carry out—

''(A) activities specified in section 1801(b); and

''(B) other activities associated with prosecutorial and judicial services and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

''(6) PART 1 VIOLENT CRIMES.—The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

''SEC. 1810. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $350,000,000 for each of fiscal years 2002 through 2005.

''(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—

''(1) IN GENERAL.—Of the amount authorized to be appropriated under section 261 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), there shall be available to the Attorney General, for each of the fiscal years 2002 through 2004 (as applicable), to remain available until expended—

''(A) not more than 2 percent of that amount, for research, evaluation, and demonstration consistent with this part;

''(B) not more than 2 percent of that amount, for training and technical assistance; and

''(C) not more than 1 percent, for administrative costs to carry out the purposes of this part.

''(2) OVERSIGHT PLAN.—The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients.

''(c) TRIBAL SET-ASIDE.—Of the amounts appropriated under subsection (a), 2 percent shall be made available for programs that receive grants under section 1801A.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

(c) TRANSITION OF JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS PROGRAM.—For each grant made from amounts made available for the Juvenile Accountability Incentive Block Grants program (as described under the heading ''VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE'' in the Department of Justice Appropriations Act, 2000 (as enacted by Public Law 106–113; 113 Stat. 1537–14)), the grant award shall remain available to the grant recipient for not more than 36 months after the date of receipt of the grant.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

SEC. 12201. SHORT TITLE.

This subtitle may be cited as the ''Juvenile Justice and Delinquency Prevention Act of 2002''.

SEC. 12202. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

''FINDINGS

''SEC. 101. (a) The Congress finds the following:

''(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

''(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society $1,700,000 to $2,300,000 annually.

''(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

''(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

''(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

''(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent.

''(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.

''(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.

''(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.

''(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

''(A) quality prevention programs that—

''(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

''(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

''(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

''(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.

''(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice

system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.''.

SEC. 12203. PURPOSE.

Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''PURPOSES

''SEC. 102. The purposes of this title and title II are—

''(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

''(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

''(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.''.

SEC. 12204. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3) by striking ''to help prevent juvenile delinquency'' and inserting ''designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior'',

(2) in paragraph (4) by inserting ''title I of'' before ''the Omnibus'' each place it appears,

(3) in paragraph (7) by striking ''the Trust Territory of the Pacific Islands,'',

(4) in paragraph (12)(B) by striking '', of any nonoffender,'',

(5) in paragraph (13)(B) by striking '', any nonoffender,'',

(6) in paragraph (14) by inserting ''drug trafficking,'' after ''assault,'',

(7) in paragraph (16)—

(A) in subparagraph (A) by adding ''and'' at the end, and

(B) by striking subparagraph (C),

(8) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking ''and'' at the end,

(9) in paragraph (23) by striking the period at the end and inserting a semicolon, and

(10) by adding at the end the following:

''(24) the term 'graduated sanctions' means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

''(25) the term 'contact' means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title 28, Code of Federal Regulations, as in effect on December 10, 1996;

''(26) the term 'adult inmate' means an individual who—

''(A) has reached the age of full criminal responsibility under applicable State law; and

''(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;

''(27) the term 'violent crime' means—

''(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

''(B) aggravated assault committed with the use of a firearm;

''(28) the term 'collocated facilities' means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

''(29) the term 'related complex of buildings' means 2 or more buildings that share—

''(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

''(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.''.

SEC. 12205. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (b)—

(A) in paragraph (3) by striking ''and of the prospective'' and all that follows through ''administered'',

(B) in paragraph (5) by striking ''parts C and D'' each place it appears and inserting ''parts D and E'', and

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

''(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing mental health care to incarcerated juveniles.'',

(2) in subsection (c) by striking ''and reports'' and all that follows through ''this part'', and inserting ''as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency'',

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

''(d) The Administrator shall have the sole authority to delegate any of the functions of the Administrator under this Act.'';

(4) by striking subsection (i), and

(5) by redesignating subsection (h) as subsection (f).

SEC. 12206. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 206(c)(2)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)(2)(B)) is amended by striking ''Education and Labor'' and inserting ''Education and the Workforce''.

SEC. 12207. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended by striking paragraphs (4) and (5), and inserting the following:

''(4) An evaluation of the programs funded under this title and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.''.

SEC. 12208. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''(other than parts D and E)'',

(II) by striking ''amount, up to $400,000,'' and inserting ''amount up to $400,000'',

(III) by striking ''1992'' the 1st place it appears and inserting ''2000,'',

(IV) by striking ''1992'' the last place it appears and inserting ''2000'',

(V) by striking ''the Trust Territory of the Pacific Islands,'', and

(VI) by striking ''amount, up to $100,000,'' and inserting ''amount up to $100,000'',

(ii) in subparagraph (B)—

(I) by striking ''(other than part D)'',

(II) by striking ''$400,000'' and inserting ''$600,000'',

(III) by striking ''or such greater amount, up to $600,000'' and all that follows through ''section 299(a) (1) and (3)'',

(IV) by striking ''the Trust Territory of the Pacific Islands,'',

(V) by striking ''amount, up to $100,000,'' and inserting ''amount up to $100,000'', and

(VI) by striking ''1992'' and inserting ''2000,'',

(B) in paragraph (3)—

(i) by striking ''allot'' and inserting ''allocate'', and

(ii) by striking ''1992'' each place it appears and inserting ''2000'', and

(2) in subsection (b) by striking ''the Trust Territory of the Pacific Islands,''.

SEC. 12209. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) in the 2d sentence by striking ''and challenge'' and all that follows through ''part E'', and inserting '', projects, and activities'',

(B) in paragraph (3)—

(i) by striking '', which—'' and inserting ''that—'',

(ii) in subparagraph (A)(i) by striking ''or the administration of juvenile justice'' and inserting '', the administration of juvenile justice, or the reduction of juvenile delinquency'', and

(iii) in subparagraph (D)—

(I) in clause (i) by inserting ''and'' at the end, and

(II) in clause (ii) by striking ''paragraphs'' and all that follows through ''part E'', and inserting ''paragraphs (11), (12), and (13)'',

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A) by striking '', other than'' and inserting ''reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding'', and

(ii) in subparagraph (C) by striking ''paragraphs (12)(A), (13), and (14)'' and inserting ''paragraphs (11), (12), and (13)'',

(D) by striking paragraph (6),

(E) in paragraph (7) by inserting '', including in rural areas'' before the semicolon at the end,

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking ''for (i)'' and all that follows through ''relevant jurisdiction'', and inserting ''for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State'', and

(II) by striking ''of the jurisdiction; (ii)'' and all that follows through the semicolon at the end, and inserting ''of the State; and'',

(ii) by amending subparagraph (B) to read as follows:

''(B) contain—

''(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

''(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

''(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;'', and

(iii) by striking subparagraphs (C) and (D),

(G) by amending paragraph (9) to read as follows:

''(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;'',

(H) in paragraph (10)—

(i) in subparagraph (A)—

(I) by striking '', specifically'' and inserting ''including'',

(II) by striking clause (i), and

(III) redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

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

''(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;'',

(iii) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii), and

(II) by striking ''juveniles, provided'' and all that follows through ''provides; and'', and inserting the following:

''juveniles—

''(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

''(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and'',

(iv) by amending subparagraph (F) to read as follows:

''(F) expanding the use of probation officers—

''(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

''(ii) to ensure that juveniles follow the terms of their probation;'',

(v) by amending subparagraph (G) to read as follows:

''(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;'',

(vii) in subparagraph (H) by striking ''handicapped youth'' and inserting ''juveniles with disabilities'',

(viii) by striking subparagraph (K),

(ix) in subparagraph (L)—

(I) in clause (iv) by adding ''and'' at the end,

(II) in clause (v) by striking ''and'' at the end, and

(III) by striking clause (vi),

(x) in subparagraph (M) by striking ''boot camps'',

(xi) by amending subparagraph (N) to read as follows:

''(N) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;'',

(xii) in subparagraph (O)—

(I) in striking ''cultural'' and inserting ''other'', and

(II) by striking the period at the end and inserting a semicolon,

(xiii) by redesignating subparagraphs (L), (M), (N), and (O) as subparagraphs (K), (L), (M), and (N), respectively; and

(xiv) by adding at the end the following:

''(O) programs designed to prevent and to reduce hate crimes committed by juveniles;

''(P) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

''(Q) community-based programs that provide follow-up post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

''(R) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; and

''(S) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans.'',

(I) by amending paragraph (12) to read as follows:

''(12) shall, in accordance with rules issued by the Administrator, provide that—

''(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

''(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

''(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

''(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

''(B) juveniles—

''(i) who are not charged with any offense; and

''(ii) who are—

''(I) aliens; or

''(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;'',

(J) by amending paragraph (13) to read as follows:

''(13) provide that—

''(A) juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph (11) will not be detained or confined in any institution in which they have contact with adult inmates; and

''(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;'',

(K) by amending paragraph (14) to read as follows:

''(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

''(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

''(i) for processing or release;

''(ii) while awaiting transfer to a juvenile facility; or

''(iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

''(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

''(i) in which—

''(I) such juveniles do not have contact with adult inmates; and

''(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

''(ii) that—

''(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

''(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

''(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;'';

(L) in paragraph (15)—

(i) by striking ''paragraph (12)(A), paragraph (13), and paragraph (14)'' and inserting ''paragraphs (11), (12), and (13)'', and

(ii) by striking ''paragraph (12)(A) and paragraph (13)'' and inserting ''paragraphs (11) and (12)'',

(M) in paragraph (16) by striking ''mentally, emotionally, or physically handicapping conditions'' and inserting ''disability'',

(N) by amending paragraph (19) to read as follows:

''(19) provide assurances that—

''(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

''(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

''(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;'',

(O) by amending paragraph (22) to read as follows:

''(22) provide that the State agency designated under paragraph (1) will—

''(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

''(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

''(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;'',

(P) by amending paragraph (23) to read as follows:

''(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;'',

(Q) by amending paragraph (24) to read as follows:

''(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

''(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

''(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

''(C) not later than 48 hours during which such juvenile is so held—

''(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

''(ii) such court shall conduct a hearing to determine—

''(I) whether there is reasonable cause to believe that such juvenile violated such order; and

''(II) the appropriate placement of such juvenile pending disposition of the violation alleged;'',

(R) in paragraph (25)—

(i) by striking ''1992'' and inserting ''2000'', and

(ii) by striking the period at the end and inserting a semicolon,

(S) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively, and

(T) by adding at the end the following:

''(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;

''(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

''(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

''(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).'',

(2) by amending subsection (c) to read as follows:

''(c) If a State fails to comply with any of the applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a) in any fiscal year beginning after September 30, 2001, then—

''(1) subject to paragraph (2), the amount allocated to such State under section 222 for the subsequent fiscal year shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, and

''(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

''(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

''(B) the Administrator determines that the State—

''(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

''(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.'',

(3) in subsection (d)—

(A) by striking ''allotment'' and inserting ''allocation'', and

(B) by striking ''subsection (a) (12)(A), (13), (14) and (23)'' each place it appears and inserting ''paragraphs (11), (12), (13), and (22) of subsection (a)'', and

(4) by adding at the end the following:

''(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) and permit the State advisory group appointed under subsection (a)(3) to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

''(f) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) to assist such organization to carry out the functions specified in paragraph (2).

''(2) ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

''(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

''(B) disseminating information, data, standards, advanced techniques, and program models;

''(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

''(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

''(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.''.

SEC. 12210. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking parts C, D, E, F, G, and H,

(2) by striking the 1st part I,

(3) by redesignating the 2d part I as part F, and

(4) by inserting after part B the following:

''PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

''SEC. 241. AUTHORITY TO MAKE GRANTS.

''(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 242, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

''(1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;

''(2) educational projects or supportive services for delinquent or other juveniles—

''(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

''(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

''(C) to assist in identifying learning difficulties (including learning disabilities);

''(D) to prevent unwarranted and arbitrary suspensions and expulsions;

''(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

''(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;

''(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or

''(H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;

''(3) projects which expand the use of probation officers—

''(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

''(B) to ensure that juveniles follow the terms of their probation;

''(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

''(5) community-based projects and services (including literacy and social service programs) which work with juvenile offenders and juveniles who are at risk of becoming juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

''(6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

''(7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

''(8) projects which provide for an initial intake screening of each juvenile taken into custody—

''(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

''(B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;

''(9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

''(10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles;

''(11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

''(12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts,

leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

''(13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

''(14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

''(15) programs that focus on the needs of young girls at-risk of delinquency or status offenses;

''(16) projects which provide for—

''(A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;

''(B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;

''(C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and

''(D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;

''(17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

''(18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;

''(19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

''(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

''(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

''(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

''(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

''(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; and

''(25) other activities that are likely to prevent juvenile delinquency.

''(b) GRANTS TO ELIGIBLE INDIAN TRIBES.—The Administrator may make grants to eligible Indian tribes from funds allocated under section 242(b), to carry out projects of the kinds described in subsection (a).

''SEC. 242. ALLOCATION.

''(a) ALLOCATION AMONG ELIGIBLE STATES.—Subject to subsection (b), funds appropriated to carry out this part shall be allocated among eligible States proportionately based on the population that is less than 18 years of age in the eligible States.

''(b) ALLOCATION AMONG INDIAN TRIBES COLLECTIVELY.—Before allocating funds under subsection (a) among eligible States, the Administrator shall allocate among eligible Indian tribes as determined under section 246(a), an aggregate amount equal to the amount such tribes would be allocated under subsection (a), and without regard to this subsection, if such tribes were treated collectively as an eligible State.

''SEC. 243. ELIGIBILITY OF STATES.

''(a) APPLICATION.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application that contains the following:

''(1) An assurance that the State will use—

''(A) not more than 5 percent of such grant, in the aggregate, for—

''(i) the costs incurred by the State to carry out this part; and

''(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

''(B) the remainder of such grant to make grants under section 244.

''(2) An assurance that, and a detailed description of how, such grant will supplement, and not supplant State and local efforts to prevent juvenile delinquency.

''(3) An assurance that such application was prepared after consultation with and participation by the State advisory group, community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

''(4) An assurance that the State advisory group will be afforded the opportunity to review and comment on all grant applications submitted to the State agency.

''(5) An assurance that each eligible entity described in section 244 that receives an initial grant under section 244 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 241 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

''(6) Such other information and assurances as the Administrator may reasonably require by rule.

''(b) APPROVAL OF APPLICATIONS.—

''(1) APPROVAL REQUIRED.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

''(2) LIMITATION.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

''(A)(i) the State submitted a plan under section 223 for such fiscal year; and

''(ii) such plan is approved by the Administrator for such fiscal year; or

''(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

''SEC. 244. GRANTS FOR LOCAL PROJECTS.

''(a) GRANTS BY STATES.—Using a grant received under section 241, a State may make grants to eligible entities whose applications are received by the State, and reviewed by the State advisory group, to carry out projects and activities described in section 241.

''(b) SPECIAL CONSIDERATION.—For purposes of making grants under subsection (a), the State shall give special consideration to eligible entities that—

''(1) propose to carry out such projects in geographical areas in which there is—

''(A) a disproportionately high level of serious crime committed by juveniles; or

''(B) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

''(2)(A) agreed to carry out such projects or activities that are multidisciplinary and involve more than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles; or

''(B) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

''(3) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

''SEC. 245. ELIGIBILITY OF ENTITIES.

''(a) ELIGIBILITY.—Except as provided in subsection (b), to be eligible to receive a grant under section 244, a unit of general purpose local government, acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

''(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through (25) of section 241(a) as specified in, such application.

''(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

''(3) A statement identifying the research (if any) such entity relied on in preparing such application.

''(b) LIMITATION.—If an eligible entity that receives a grant under section 244 to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

''SEC. 246. GRANTS TO INDIAN TRIBES.

''(a) ELIGIBILITY.—

''(1) APPLICATION.—To be eligible to receive a grant under section 241(b), an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

''(2) PLANS.—Such application shall include a plan for conducting programs, projects, and activities described in section 241(a), which plan shall—

''(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

''(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

''(C) provide for fiscal control and accounting procedures that—

''(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

''(ii) are consistent with the requirement specified in subparagraph (B); and

''(D) comply with the requirements specified in section 223(a) (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 222(c); and

''(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 241(b).

''(b) FACTORS FOR CONSIDERATION.—For the purpose of selecting eligible applicants to receive grants under section 241(b), the Administrator shall consider—

''(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

''(2) with respect to each such applicant—

''(A) the juvenile population; and

''(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

''(c) GRANT PROCESS.—

''(1) SELECTION OF GRANT RECIPIENTS.—

''(A) SELECTION REQUIREMENTS.—Except as provided in paragraph (2), the Administrator shall—

''(i) make grants under this section on a competitive basis; and

''(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

''(B) PERIOD OF GRANT.—A grant made under this section shall be available for expenditure during a 2–year period.

''(2) EXCEPTION.—If—

''(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

''(B) the Administrator determines that such recipient performed during the year preceding the 2–year period for which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

''(3) AUTHORITY TO MODIFY APPLICATION PROCESS FOR SUBSEQUENT GRANTS.—The Administrator may modify by rule the operation of subsection (a) with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

''(d) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

''(e) MATCHING REQUIREMENT.—(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

''(2) Paragraph (1) shall not apply with respect to funds appropriated before the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 2002.

''(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.''.

SEC. 12211. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part C, as added by section 12510, the following:

''PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

''SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

''(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

''(A) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

''(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

''(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

''(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

''(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

''(iv) successful efforts to prevent recidivism;

''(v) the juvenile justice system;

''(vi) juvenile violence;

''(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;

''(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;

''(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;

''(x) determining—

''(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and

''(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—

''(aa) the relationship between victims and perpetrators;

''(bb) demographic characteristics of victims and perpetrators; and

''(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and

''(xi) other purposes consistent with the purposes of this title and title I.

''(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

''(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

''(4) Not later than 1 year after the date of enactment of this paragraph,the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State. Such study shall include—

''(A) the number of juveniles in each category;

''(B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;

''(C) the Federal and local sources of funds used for placements and post-placement services;

''(D) barriers faced by State in providing services to these juveniles;

''(E) the types of post-placement services used;

''(F) the frequency of case plans and case plan reviews; and

''(G) the extent to which case plans identify and address permanency and placement barriers and treatment plans.

''(b) STATISTICAL ANALYSES.—The Administrator may—

''(1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

''(2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

''(c) GRANT AUTHORITY AND COMPETITIVE SELECTION PROCESS.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

''(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

''(e) INFORMATION DISSEMINATION.—The Administrator may—

''(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

''(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

''(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

''SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

''(a) TRAINING.—The Administrator may—

''(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102; and

''(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102.

''(b) TECHNICAL ASSISTANCE.—The Administrator may—

''(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

''(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.

''(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in nonsecure residential placements.''.

SEC. 12212. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part D, as added by section 12511, the following:

''PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

''SEC. 261. GRANTS AND PROJECTS.

''(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

''(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

''SEC. 262. GRANTS FOR TECHNICAL ASSISTANCE.

''The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

''SEC. 263. ELIGIBILITY.

''To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

''SEC. 264. REPORTS.

''Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying out the projects for which such grants are made.''.

SEC. 12213. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e), and

(2) by striking subsections (a), (b), and (c), and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II (EXCLUDING PARTS C AND E).—(1) There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2003, 2004, 2005, 2006, and 2007.

''(2) Of such sums as are appropriated for a fiscal year to carry out this title (other than parts C and E)—

''(A) not more than 5 percent shall be available to carry out part A;

''(B) not less than 80 percent shall be available to carry out part B; and

''(C) not more than 15 percent shall be available to carry out part D.

''(b) AUTHORIZATION OF APPROPRIATIONS FOR PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

''(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.''.

SEC. 12214. ADMINISTRATIVE AUTHORITY.

Section 299A of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended—

(1) in subsection (d) by striking ''as are consistent with the purpose of this Act'' and inserting ''only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance'', and

(2) by adding at the end the following:

''(e) If a State requires by law compliance with the requirements described in paragraphs (11), (12), and (13) of section 223(a), then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.''.

SEC. 12215. USE OF FUNDS.

Section 299C(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674(c)) is amended to read as follows:

''(c) No funds may be paid under this title to a residential program (excluding a program in a private residence) unless—

''(1) there is in effect in the State in which such placement or care is provided, a requirement that the provider of such placement or such care may be licensed only after satisfying, at a minimum, explicit standards of discipline that prohibit neglect, and physical and mental abuse, as defined by State law;

''(2) such provider is licensed as described in paragraph (1) by the State in which such placement or care is provided; and

''(3) in a case involving a provider located in a State that is different from the State where the order for placement originates, the chief administrative officer of the public agency or the officer of the court placing the juvenile certifies that such provider—

''(A) satisfies the originating State's explicit licensing standards of discipline that prohibit neglect, physical and mental abuse, and standards for education and health care as defined by that State's law; and

''(B) otherwise complies with the Interstate Compact on the Placement of Children as entered into by such other State.''.

SEC. 12216. LIMITATIONS ON USE OF FUNDS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510, is amended adding at the end the following:

''SEC. 299F. LIMITATIONS ON USE OF FUNDS.

''None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.''.

SEC. 12217. RULES OF CONSTRUCTION.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by section 12516, is amended adding at the end the following:

''SEC. 299G. RULES OF CONSTRUCTION.

''Nothing in this title or title I shall be construed—

''(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

''(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.''.

SEC. 12218. LEASING SURPLUS FEDERAL PROPERTY.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516 and 12517, is amended adding at the end the following:

''SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

''The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.''.

SEC. 12219. ISSUANCE OF RULES.

Part F of title II or the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, and 12518, is amended adding at the end the following:

''SEC. 299I. ISSUANCE OF RULES.

''The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.''.

SEC. 12220. CONTENT OF MATERIALS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, 12518, and 12519, is amended by adding at the end the following:

''SEC. 299J. CONTENT OF MATERIALS.

''Materials produced, procured, or distributed both using funds appropriated to carry out this Act and for the purpose of preventing hate crimes that result in acts of physical violence, shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, or equal protection of juveniles or of their parents or legal guardians.''.

SEC. 12221. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in section 202(b) by striking ''prescribed for GS–18 of the General Schedule by section 5332'' and inserting ''payable under section 5376'',

(2) in section 221(b)(2) by striking the last sentence,

(3) in section 299D by striking subsection (d), and

(4) by striking title IV, as originally enacted by Public Law 93–415 (88 Stat. 1132–1143).

(b) CONFORMING AMENDMENTS.—(1) The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 214(b)(1) by striking ''262, 293, and 296 of subpart II of title II'' and inserting ''299B and 299E'',

(B) in section 214A(c)(1) by striking ''262, 293, and 296 of subpart II of title II'' and inserting ''299B and 299E'',

(C) in section 217(c)(1) by striking ''sections 262, 293, and 296 of subpart II of title II'' and inserting ''sections 299B and 299E'', and

(D) in section 223(c) by striking ''section 262, 293, and 296'' and inserting ''sections 262, 299B, and 299E''.

(2) Section 404(a)(5)(E) of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended by striking ''section 313'' and inserting ''section 331''.

SEC. 12222. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) AMENDMENT.—Title V of the of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781–5785), as added by Public Law 102–586, is amended to read as follows:

''TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

''SEC. 501. SHORT TITLE.

''This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act of 2002'.

''SEC. 502. DEFINITION.

''In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

''SEC. 503. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

''The Administrator shall—

''(1) issue such rules as are necessary or appropriate to carry out this title;

''(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

''(3) provide adequate staff and resources necessary to properly carry out this title; and

''(4) not later than 180 days after the end of each fiscal year, submit a report to the chairman of the Committee on Education and the Workforce of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate—

''(A) describing activities and accomplishments of grant activities funded under this title;

''(B) describing procedures followed to disseminate grant activity products and research findings;

''(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

''(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

''SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS.

''(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

''(1) alcohol and substance abuse prevention services;

''(2) tutoring and remedial education, especially in reading and mathematics;

''(3) child and adolescent health and mental health services;

''(4) recreation services;

''(5) leadership and youth development activities;

''(6) the teaching that people are and should be held accountable for their actions;

''(7) assistance in the development of job training skills; and

''(8) other data-driven evidence based prevention programs.

''(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

''(1) the unit is in compliance with the requirements of part B of title II;

''(2) the unit has submitted to the State advisory group a minimum 3-year comprehensive plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

''(3) the unit has included in its application to the Administrator for formula grant funds a summary of the minimum 3-year comprehensive plan described in paragraph (2);

''(4) pursuant to its minimum 3-year comprehensive plan, the unit has appointed a local policy board of not fewer than 15 and not more than 21 members, with balanced representation of public agencies and private nonprofit organizations serving juveniles, their families, and business and industry;

''(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk juveniles and their families, including such programs as nutrition, energy assistance, and housing;

''(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

''(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

''(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

''(1) plans for service and agency coordination and collaboration including the colocation of services;

''(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities;

''(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention;

''(4) coordinating and collaborating with programs established in local communities for delinquency prevention under part C of this subtitle; and

''(5) developing data-driven prevention plans, employing evidence-based prevention strategies, and conducting program evaluations to determine impact and effectiveness.

''SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008.''.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall not apply with respect to grants made before such date.

SEC. 12223. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to fiscal years beginning after September 30, 2002.

Subtitle C—Juvenile Disposition Hearing

SEC. 12301. JUVENILE DISPOSITION HEARING.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence—

(i) by striking ''enter an order of restitution pursuant to section 3556,''; and

(ii) by inserting after ''official detention'' the following: ''which may include a term of juvenile delinquent supervision to follow detention''; and

(B) by inserting after the second sentence the following: ''In addition, the court may enter an order of restitution pursuant to section 3556.'';

(2) in subsection (b)—

(A) by striking the last sentence; and

(B) by adding at the end the following:

''The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on probation. If the juvenile violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 28, revoke the term of probation and order a term of official detention. The term of official detention authorized upon revocation of probation shall not exceed the terms authorized in section 5037(c)(2) (A) and (B). The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of imprisonment may continue beyond the juvenile's 24th birthday. A term of official detention may include a term of juvenile delinquent supervision.'';

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or'';

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or'';

(4) in subsection (c)(2)(A), by striking ''five years; or'' and inserting: ''the lesser of—

''(i) five years; or

''(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or'';

(5) in subsection (c)(2)(B)—

(A) in clause (i), by striking ''or'';

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or'';

(6) by redesignating subsection (d) as subsection (e); and

(7) by inserting after subsection (c) the following:

''(d)(1) The court, in ordering a term of official detention, may include the requirement that the juvenile be placed on a term of juvenile delinquent supervision after official detention.

''(2) The term of juvenile delinquent supervision that may be ordered for a juvenile found to be a juvenile delinquent may not extend—

''(A) in the case of a juvenile who is less than 18 years old, a term that extends beyond the date when the juvenile becomes 21 years old; or

''(B) in the case of a juvenile who is between 18 and 21 years old, a term that extends beyond the maximum term of official detention set forth in section 5037(c)(2) (A) and (B), less the term of official detention ordered.

''(3) The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on juvenile delinquent supervision.

''(4) The court may modify, reduce, or enlarge the conditions of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision after a dispositional hearing and after consideration of the provisions of section 3563 regarding the initial setting of the conditions of probation.

''(5) If the juvenile violates a condition of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 18, revoke the term of supervision and order a term of official detention. The term of official detention which is authorized upon revocation of juvenile delinquent supervision shall not exceed the term authorized in section 5037(c)(2) (A) and (B), less any term of official detention previously ordered. The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years old shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile's 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile's 24th birthday.

''(6) When a term of juvenile delinquent supervision is revoked and the juvenile is committed to official detention, the court may include a requirement that the juvenile be placed on a term of juvenile delinquent supervision. Any term of juvenile delinquent supervision ordered following revocation for a juvenile who is over the age of 21 years old at the time of the revocation proceeding shall be in accordance with the provisions of section 5037(d)(1), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of juvenile delinquent supervision may continue beyond the juvenile's 26th birthday, and in any other case, no term of juvenile delinquent supervision may continue beyond the juvenile's 24th birthday.''.

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

SEC. 13101. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Authorization Act of 2002''.

SEC. 13102. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

(a) IN GENERAL.—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

(1) title 35, United States Code; and

(2) the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

(b) ESTIMATES.—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this subtitle referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.

SEC. 13103. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.

(a) ELECTRONIC FILING AND PROCESSING.—The Director shall, beginning not later than 90 days after the date of enactment of this Act, and during the 3-year period thereafter, develop an electronic system for the filing and processing of patent and trademark applications, that—

(1) is user friendly; and

(2) includes the necessary infrastructure—

(A) to allow examiners and applicants to send all communications electronically; and

(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 13102, there is authorized to be appropriated to carry out subsection (a) of this section not more than $50,000,000 for each of fiscal years 2003, 2004, and 2005. Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 13104. STRATEGIC PLAN.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on January 1, 2003—

(A) enhance patent and trademark quality;

(B) reduce patent and trademark pendency; and

(C) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 13103, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

(2) CONTENTS AND CONSULTATION.—The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 4 months after the date of enactment of this Act, the Director shall submit the plan developed under subsection (a) to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 13105. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

(a) IN GENERAL.—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: ''The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of enactment of this Act.

SEC. 13106. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.

(a) APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.—Section 315(b) of title 35, United States Code, is amended to read as follows:

''(b) THIRD-PARTY REQUESTER.—A third-party requester—

''(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

''(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.''.

(b) APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended in the third sentence by inserting '', or a third-party requester in an inter partes reexamination proceeding, who is'' after ''patent owner''.

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of enactment of this Act.

Subtitle B—Intellectual Property and High Technology Technical Amendments

SEC. 13201. SHORT TITLE.

This subtitle may be cited as the ''Intellectual Property and High Technology Technical Amendments Act of 2002''.

SEC. 13202. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking ''person'' and inserting ''third-party requester''; and

(B) in subsection (c), by striking ''Unless the requesting person is the owner of the patent, the'' and inserting ''The''.

(2) Section 312 is amended—

(A) in subsection (a), by striking the second sentence; and

(B) in subsection (b), by striking '', if any''.

(3) Section 314(b)(1) is amended—

(A) by striking ''(1) This'' and all that follows through ''(2)'' and inserting ''(1)'';

(B) by striking ''the third-party requester shall receive a copy'' and inserting ''the Office shall send to the third-party requester a copy''; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking ''United States Code,''.

(5) Section 317 is amended—

(A) in subsection (a), by striking ''patent owner nor the third-party requester, if any, nor privies of either'' and inserting ''third-party requester nor its privies''; and

(B) in subsection (b), by striking ''United States Code,''.

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking ''administrative patent judge'' each place it appears and inserting ''primary examiner''.

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In an ex parte case or any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and

Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.''.

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended by striking ''Part 3'' and inserting ''Part III''.

(2) Section 4604(b) of that Act is amended by striking ''title 25'' and inserting ''title 35''.

(d) EFFECTIVE DATE.—The amendments made by section 4605 (b), (c), and (e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106–113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of enactment of Public Law 106–113.

SEC. 13203. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067(b)), is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(2) Section 6(a) of title 35, United States Code, is amended by inserting ''the Deputy Commissioner,'' after ''Commissioner,''.

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting '', privileged,'' after ''personnel''; and

(2) by adding at the end the following new subsection:

''(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.''.

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking ''and attested by an officer of the Patent and Trademark Office designated by the Director,''.

SEC. 13204. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking ''on which the Patent and Trademark Office receives a copy of the'' and inserting ''of''; and

(2) by striking ''international application'' the last place it appears and inserting ''publication''.

SEC. 13205. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 4505 is amended to read as follows:

''SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

''Section 102(e) of title 35, United States Code, is amended to read as follows:

'''(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or'.''.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking ''Section 11'' and inserting ''Section 10'';

(B) in paragraph (2), by striking ''Section 12'' and inserting ''Section 11''.

(C) in paragraph (3), by striking ''Section 13'' and inserting ''Section 12'';

(D) in paragraph (4), by striking ''12 and 13'' and inserting ''11 and 12'';

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking ''confer the same rights and shall have the same effect under this title as an application for patent published'' and inserting ''be deemed a publication''; and

(F) by adding at the end the following:

''(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

'''374. Publication of international application.'''.

(3) Section 4508 is amended to read as follows:

''SEC. 4508. EFFECTIVE DATE.

''Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Director. Except as otherwise provided in this section, the amendments made by section 4505 shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000.''.

SEC. 13206. MISCELLANEOUS CLERICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking '', United States Code''.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking ''United States Code,'';

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking '', United States Code'';

(ii) in the first sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code'';

(iii) in the second sentence of subparagraph (B)—

(I) by striking ''United States Code,''; and

(II) by striking '', United States Code.'' and inserting a period;

(iv) in the last sentence of subparagraph (B), by striking '', United States Code''; and

(v) in subparagraph (C), by striking '', United States Code''; and

(C) in subsection (c)—

(i) in the subsection caption, by striking '', UNITED STATES CODE''; and

(ii) by striking ''United States Code,''.

(3) Section 5 is amended in subsections (e) and (g), by striking '', United States Code'' each place it appears.

*(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking ''**before**'' and inserting ''**Before**''.*

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

''21. Filing date and day for taking action.''.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

''12. Examination of Application ..... 131''.

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

''116. Inventors.''.

(8) Section 154(b)(4) is amended by striking '', United States Code,''.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking ''paragraphs'' and inserting ''paragraph'';

(B) in subsection (d)(2)(B)(i), by striking ''below the office'' and inserting ''below the Office''; and

(C) in subsection (g)(6)(B)(iii), by striking ''submittted'' and inserting ''submitted''.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking ''of'' and inserting ''to''.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

(A) by striking ''United States Code,''; and

(B) by striking ''5, United States Code.'' and inserting ''5.''.

(13) Section 202 is amended—

(A) in subsection (b)(4), by striking ''last paragraph of section 203(2)'' and inserting ''section 203(b)''; and

(B) in subsection (c)—

(i) in paragraph (4), by striking ''rights;'' and inserting ''rights,''; and

(ii) in paragraph (5), by striking ''of the United States Code''.

(14) Section 203 is amended—

(A) in paragraph (2)—

(i) by striking ''(2)'' and inserting ''(b)'';

(ii) by striking the quotation marks and comma before ''as appropriate''; and

(iii) by striking ''paragraphs (a) and (c)'' and inserting ''paragraphs (1) and (3) of subsection (a)''; and

(B) in the first paragraph—

(i) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(1)'', ''(2)'', ''(3)'', and ''(4)'', respectively; and

(ii) by striking ''(1.'' and inserting ''(a)''.

(15) Section 209 is amended in subsections (d)(2) and (f), by striking ''of the United States Code''.

(16) Section 210 is amended—

(A) in subsection (a)—

(i) in paragraph (11), by striking ''5901'' and inserting ''5908''; and

(ii) in paragraph (20) by striking ''178(j)'' and inserting ''178j''; and

(B) in subsection (c)—

(i) by striking ''paragraph 202(c)(4)'' and inserting ''section 202(c)(4)''; and

(ii) by striking ''title..'' and inserting ''title.''.

*(17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after ''**Patent**''.*

(18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

''256. Correction of named inventor.''.

(19) Section 294 is amended—

(A) in subsection (b), by striking ''United States Code,''; and

(B) in subsection (c), in the second sentence by striking ''court to'' and inserting ''court of''.

(20) Section 371(d) is amended by adding at the end a period.

(21) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.

(b) OTHER AMENDMENTS.—

(1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—

(A) in paragraph (9)(A)(ii), by inserting ''in subsection (b),'' after ''(ii)''; and

(B) in paragraph (10)(A), by inserting after ''title 35, United States Code,'' the following: ''other than sections 1 through 6 (as amended by chapter 1 of this subtitle),''.

(2) Section 4802(1) of that Act is amended by inserting ''to'' before ''citizens''.

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking ''11(a)'' and inserting ''10(a)''; and

(B) in subsection (c), by striking ''13'' and inserting ''12''.

(4) Section 4402(b)(1) of that Act is amended by striking ''in the fourth paragraph''.

SEC. 13207. TECHNICAL CORRECTIONS IN TRADEMARK LAW.

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1117(a)), is amended by striking ''a violation under section 43(a), (c), or (d),'' and inserting ''a violation under section 43(a) or (d),''.

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking ''specifying the date of the applicant's first use'' and all that follows through the end of the sentence and inserting ''specifying the date of the applicant's first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.''.

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

''(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.''.

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

''(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.''.

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

''(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.''.

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

''(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

''(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

''(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

''(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

''(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Director.

''(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Director.''.

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after ''numeral''.

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''.

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code''.

(10) Section 34(d)(11) is amended by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking ''section 110'' and all that follows through ''(36 U.S.C. 380)'' and inserting ''section 220506 of title 36, United States Code,''; and

(B) by striking ''6621 of the Internal Revenue Code of 1954'' and inserting ''6621(a)(2) of the Internal Revenue Code of 1986''.

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking ''a certification'' and inserting ''a true copy, a photocopy, a certification,''.

SEC. 13208. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking ''111(a)'' and inserting ''1113(a)''.

SEC. 13209. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

(1) Section 1007 is amended—

(A) in paragraph (2), by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)''; and

(B) in paragraph (3), by striking ''1005(e)'' and inserting ''1005(d)''.

(2) Section 1006(b) is amended by striking ''119(b)(1)(B)(iii)'' and inserting ''119(b)(1)(B)(ii)''.

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding ''and'' after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

(B) Section 1011(b)(2)(A) is amended to read as follows:

''(A) in paragraph (1), by striking 'primary transmission made by a superstation and embodying a performance or display of a work' and inserting 'performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed';''.

SEC. 13210. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 119(a)(6) is amended by striking ''of performance'' and inserting ''of a performance''.

*(2)(A) The section heading for section 122 is amended by striking ''**rights; secondary**'' and inserting ''**rights: Secondary**''.*

(B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

''122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.''.

*(3)(A) The section heading for section 121 is amended by striking ''**reproduction**'' and inserting ''**Reproduction**''.*

(B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking ''reproduction'' and inserting ''Reproduction''.

(4)(A) Section 106 is amended by striking ''107 through 121'' and inserting ''107 through 122''.

(B) Section 501(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(C) Section 511(a) is amended by striking ''106 through 121'' and inserting ''106 through 122''.

(5) Section 101 is amended—

(A) by moving the definition of ''computer program'' so that it appears after the definition of ''compilation''; and

(B) by moving the definition of ''registration'' so that it appears after the definition of ''publicly''.

(6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking ''conditions;'' and inserting ''conditions:''.

(7) Section 118(b)(1) is amended in the second sentence by striking ''to it''.

(8) Section 119(b)(1)(A) is amended—

(A) by striking ''transmitted'' and inserting ''retransmitted''; and

(B) by striking ''transmissions'' and inserting ''retransmissions''.

(9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking ''(A) the'' and inserting ''(A) The''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking ''(B) the'' and inserting ''(B) The''; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking ''(C) the'' and inserting ''(C) The''.

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking ''licensure'' and inserting ''licensing''.

SEC. 13211. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking ''107 through 120'' and inserting ''107 through 122''.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking ''section 290(e) of title 15'' and inserting ''section 6 of the Standard Reference Data Act (15 U.S.C. 290e)''.

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking ''Notwithstanding'' and all that follows through ''United States Code,'' and inserting ''Notwithstanding the limitations under section 105 of title 17, United States Code,''.

Subtitle C—Educational Use Copyright Exemption

SEC. 13301. EDUCATIONAL USE COPYRIGHT EXEMPTION.

(a) SHORT TITLE.—This subtitle may be cited as the ''Technology, Education, and Copyright Harmonization Act of 2002''.

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

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

''(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

''(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

''(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;

''(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

''(i) students officially enrolled in the course for which the transmission is made; or

''(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

''(D) the transmitting body or institution—

''(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

''(ii) in the case of digital transmissions—

''(I) applies technological measures that reasonably prevent—

''(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

''(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

''(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;''; and

(2) by adding at the end the following:

''In paragraph (2), the term 'mediated instructional activities' with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

''For purposes of paragraph (2), accreditation—

''(A) with respect to an institution providing post-secondary education, shall be as determined by a regional or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

''(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

''For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.''.

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

''(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

''(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

''(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

''(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

''(A) no digital version of the work is available to the institution; or

''(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking ''section 112(f)'' and inserting ''section 112(g)''.

(d) PATENT AND TRADEMARK OFFICE REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after a period for public comment, the Undersecretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing technological protection systems that have been implemented, are available for implementation, or are proposed to be developed to protect digitized copyrighted works and prevent infringement, including upgradeable and self-repairing systems, and systems that have been developed, are being developed, or are proposed to be developed in private voluntary industry-led entities through an open broad based consensus process. The report submitted to the Committees shall not include any recommendations, comparisons, or comparative assessments of any commercially available products that may be mentioned in the report.

(2) LIMITATIONS.—The report under this subsection—

(A) is intended solely to provide information to Congress; and

(B) shall not be construed to affect in any way, either directly or by implication, any provision of title 17, United States Code, including the requirements of clause (ii) of section 110(2)(D) of that title (as added by this subtitle), or the interpretation or application of such provisions, including evaluation of the compliance with that clause by any governmental body or nonprofit educational institution.

Subtitle D—Madrid Protocol Implementation

SEC. 13401. SHORT TITLE.

This subtitle may be cited as the ''Madrid Protocol Implementation Act''.

SEC. 13402. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the ''Trademark Act of 1946'') is amended by adding after section 51 the following:

''TITLE XII—THE MADRID PROTOCOL

''SEC. 60. DEFINITIONS.

''In this title:

''(1) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

''(2) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

''(3) CONTRACTING PARTY.—The term 'Contracting Party' means any country or inter-governmental organization that is a party to the Madrid Protocol.

''(4) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection, filed after an international registration is granted, is recorded on the International Register.

''(5) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

''(A) the applicant or holder has a bona fide intention to use the mark in commerce;

''(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

''(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, mistake, or deception.

''(6) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to the United States at the request of the holder of the international registration, in accordance with the Madrid Protocol.

''(7) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

''(8) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

''(9) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

''(10) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded.

''(11) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

''(12) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

''(13) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

''(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by the United States Patent and Trademark Office to the International Bureau declaring that an extension of protection cannot be granted.

''(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

''(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

''(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

''(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

''(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the United States Patent and Trademark Office, including any extension of time granted under section 13.

''SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

''(a) IN GENERAL.—The owner of a basic application pending before the United States Patent and Trademark Office, or the owner of a basic registration granted by the United States Patent and Trademark Office may file an international application by submitting to the United States Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

''(b) QUALIFIED OWNERS.—A qualified owner, under subsection (a), shall—

''(1) be a national of the United States;

''(2) be domiciled in the United States; or

''(3) have a real and effective industrial or commercial establishment in the United States.

''SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

''(a) CERTIFICATION PROCEDURE.—Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification.

''(b) TRANSMITTAL.—Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

''SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

''With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

''(1) within 5 years after the international registration date; or

''(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

''SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

''The holder of an international registration that is based upon a basic application filed with the United States Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

''(1) directly with the International Bureau; or

''(2) with the United States Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

''SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

''(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

''(b) IF THE UNITED STATES IS OFFICE OF ORIGIN.—Where the United States Patent and Trademark Office is the office of origin for a trademark application or registration, any international registration based on such application or registration cannot be used to obtain the benefits of the Madrid Protocol in the United States.

''SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

''(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the United States Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

''(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

''(1) The international registration date, if the request for extension of protection was filed in the international application.

''(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

''(3) The date of priority claimed pursuant to section 67.

''SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

''The holder of an international registration with a request for an extension of protection to the United States shall be entitled to claim a date of priority based on a right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

''(1) the request for extension of protection contains a claim of priority; and

''(2) the date of international registration or the date of the recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article

4(C)(4) of the Paris Convention for the Protection of Industrial Property).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

''(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the United States Patent and Trademark Office.

''(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13.

''(3) Extension of protection shall not be refused on the ground that the mark has not been used in commerce.

''(4) Extension of protection shall be refused to any mark not registrable on the Principal Register.

''(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

''(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

''(A) A notification of refusal based on an examination of the request for extension of protection.

''(B) A notification of refusal based on the filing of an opposition to the request.

''(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

''(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

''(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

''(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

''(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

''(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the United States Patent and Trademark Office.

''(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

''(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

''(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

''(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the United States Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

''(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

''(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

''(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

''(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; and

''(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

''(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the United States Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

''(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and the surcharge prescribed by the Director.

''(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

''(c) NOTIFICATION.—The Director shall notify the holder of the international registration who files 1 of the affidavits of the Director's acceptance or refusal thereof and, in case of a refusal, the reasons therefor.

''(d) SERVICE OF NOTICE OR PROCESS.—The holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

''An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

''The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

''When a United States registration and a subsequently issued certificate of extension of protection to the United States are owned by the

same person, identify the same mark, and list the same goods or services, the extension of protection shall have the same rights that accrued to the registration prior to issuance of the certificate of extension of protection.''.

SEC. 13403. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date on which the Madrid Protocol (as defined in section 60 of the Trademark Act of 1946) enters into force with respect to the United States; or

(2) the date occurring 1 year after the date of enactment of this Act.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

SEC. 14101. SHORT TITLE.

This title may be cited as the ''Antitrust Technical Corrections Act of 2002''.

SEC. 14102. AMENDMENTS.

(a) PANAMA CANAL ACT.—Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins ''No vessel permitted''.

(b) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.''; and

(2) by adding at the end the following:

''(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.''.

(c) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 509; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77; and

(B) in section 78—

(i) by striking ''76, and 77'' and inserting ''and 76''; and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking ''77'' and inserting ''76''.

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking ''77'' and inserting ''76''.

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking ''77'' and inserting ''76''.

(d) CLAYTON ACT.—The first section 27 of the Clayton Act (15 U.S.C. 27) is redesignated as section 28 and is transferred so as to appear at the end of such Act.

(e) YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT.—Section 5(a)(2) of the Year 2000 Information and Readiness Disclosure Act (Public Law 105–271) is amended by inserting a period after ''failure''.

(f) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

(g) REPEAL.—Section 116 of the Act of November 19, 2001 is repealed.

SEC. 14103. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) APPLICATION TO CASES.—(1) Section 14102(f) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (a), (b), and (c) of section 14102 shall apply only with respect to cases commenced on or after the date of enactment of this Act.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HENRY HYDE,
GEORGE W. GEKAS,
J. HOWARD COBLE,
LAMAR SMITH,
ELTON GALLEGLY,
JOHN CONYERS, Jr.,
BARNEY FRANK,
BOBBY SCOTT,
TAMMY BALDWIN,
(Provided, That Mr. BERMAN is appointed in lieu of Ms. BALDWIN for consideration of sec. 312 of the Senate amendment, and modifications committed to conference.)
HOWARD BERMAN

From the Committee on Energy and Commerce, for consideration of secs. 2203–6, 2206, 2210, 2801, 2901–2911, 2951, 4005, and title VIII of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,

From the Committee on Education and the Workforce, for consideration of secs. 2207, 2301, 2302, 2311, 2321–4, and 2331–4 of the Senate amendment, and modifications committed to conference:

PETER HOEKSTRA,
MICHAEL N. CASTLE,
GEORGE MILLER,
Managers on the Part of the House.

PATRICK LEAHY,
TED KENNEDY,
ORRIN HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2215, the 21st Century Department of Justice Appropriations Authorization Act, to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck the entire House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Section 1. Short title and table of contents

Section 1 provides that the short title of the Act shall be the 21st Century Department of Justice Appropriations Authorization Act, as well as the Table of Contents.

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002

Section 101. Specific sums authorized to be appropriated for fiscal year 2002

Section 101 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2002. The structure of section 101 mirrors the organization of the annual Commerce-Justice-State (CJS) appropriations bill and the President's budget request. The section authorizes the appropriations of amounts requested by the President in most accounts and as enacted in Public Law 107–77. This provision is similar to section 101 of the House bill. The accounts, and the activities and components that each would fund, are as follows:

General Administration—$92,668,000.—For the leadership offices of the Department (including the offices of the Attorney General and Deputy Attorney General) and the Justice Management Division, Executive Support Program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals—$173,647,000.—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General—$50,735,000.—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation. This amount is $10 million above the President's request. The IG's Office has been severely downsized over the last several years from approximately 460 to 360 full-time equivalents. Oversight is a priority and this level of funding should get the IG back on the path of meeting the audit and oversight needs of the Department. The Committee expects that the OIG will substantially increase its oversight of the FBI, INS, and the Department's grant programs.

General Legal Activities—$549,176,000.—For the conduct of the legal activities of the Department. This includes the Office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

Antitrust Division—$140,973,000.—For decreasing anticompetitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys—$1,353,968,000.—For the 94 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department. The authorization includes not less than

$10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147).

Federal Bureau of Investigation—$3,524,864,000.—For the detection, investigation, and prosecution of crimes against the United States. The FBI is also authorized by Executive Order to protect against foreign intelligence and international terrorist activities and, in certain circumstances, to collect foreign intelligence.

United States Marshals Service—$648,696,000.—To protect the Federal courts and its personnel and to ensure the effective operation of the Federal judicial system, of which no more than $15,000,000 may be used for construction.

Federal Prison System—$4,622,152,000.—For the administration, operation, and maintenance of Federal penal and correctional institutions.

Federal Prison Detention—$706,182,000.—For the support of U.S. prisoners in non-Federal institutions, as authorized by 18 U.S.C. 4013(a).

Drug Enforcement Agency—$1,481,783,000.—To enforce the controlled substance laws and regulations of the United States and to recommend and support nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service—$3,499,854,000.—For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $2,739,695,000 for salaries and expenses and border affairs, no more than $631,745,000 for salaries and expenses of citizenship and benefits, and no more than $128,454,000 for construction.

Fees and Expenses of Witnesses—$156,145,000.—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for Government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement—$338,577,000.—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission—$1,136,000.—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation.

Community Relations Service (CRS)—$9,269,000.—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with title X of the Civil Rights Act of 1964.

Assets Forfeiture Fund—$22,949,000.—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property.

United States Parole Commission—$9,876,000.—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee—$1,000,000.—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the U.S. Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Joint Automated Booking System—$1,000,000.—For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data.

Narrowband Communications—$94,615,000.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation.—such sums as necessary—For administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund—$4,989,000.—For the reimbursement of costs authorized by section 101 of the USA PATRIOT Act (Public Law 107–56).

Office of Justice Programs—$132,862,000.—For necessary administrative expenses of the Office of Justice Programs.

Section 102. Specific sums authorized to be appropriated for fiscal year 2003

Section 102 authorizes appropriations to carry out the work of the various components of the Department of Justice for fiscal year 2003. The conferees added this section to the conference report to reflect the President's budget request for fiscal year 2003, which was released after passage of the House and Senate bills. There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

General Administration.—$121,079,000.—For the leadership offices of the Department (including the offices of the Attorney General and Deputy Attorney General) and the Justice Management Division, Executive Support Program, Intelligence Policy, Office of Professional Responsibility, and General Administration.

Administrative Review and Appeals.—$198,869,000.—For the Executive Office for Immigration Review and the Office of the Pardon Attorney.

Office of Inspector General.—$66,288,000.—For the investigation of allegations of violations of criminal and civil statutes, regulations, and ethical standards by Department employees, and for the new position of Deputy Inspector General to oversee the Federal Bureau of Investigation.

General Legal Activities.—$659,181,000.—For the conduct of the legal activities of the Department. This includes the Office of Solicitor General, Tax Division, Criminal Division, Civil Division, Environment and Natural Resources Division, Civil Rights Division, Office of Legal Counsel, Interpol, Legal Activities Office Automation, and Office of Dispute Resolution. The authorization includes not less than $4,000,000 to augment the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals.

Antitrust Division.—$141,855,000.—For decreasing anticompetitive behavior among U.S. businesses and increasing the competitiveness of the national and international business environment.

United States Attorneys.—$1,550,948,000.—For the 94 U.S. Attorneys and their offices and the Executive Office of U.S. Attorneys. The U.S. Attorneys represent the United States in the vast majority of criminal and civil cases handled by the Justice Department. The authorization includes not less than $10,000,000 to augment the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public Law 105–147).

Federal Bureau of Investigation.—$4,323,912,000.—For the detection, investigation, and prosecution of crimes against the United States. The FBI is also authorized by Executive Order to protect against foreign intelligence and international terrorist activities and, in certain circumstances, to collect foreign intelligence.

United States Marshals Service.—$737,346,000.—To protect the Federal courts and its personnel and to ensure the effective operation of the Federal judicial system, of which no more than $6,621,000 may be used for construction.

Federal Prison System.—$4,605,068,000.—For the administration, operation, and maintenance of Federal penal and correctional institutions.

Drug Enforcement Administration.—$1,582,044,000.—To enforce the controlled substance laws and regulations of the United States and to recommend and support nonenforcement programs aimed at reducing the availability of illicit controlled substances on the domestic and international markets.

Immigration and Naturalization Service.—$4,131,811,000. For the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, of which no more than $3,253,561,000 for salaries and expenses of Border Patrol; no more than $88,598,000 for salaries and expenses of immigration services, including international services; and no more than $789,652,000 for salaries and expenses for support and administration.

School Compliance with INS Regulations: Designated School Officials (DSO) Certification. The conferees strongly endorse a plan for the INS to implement after January 31, 2003, a comprehensive training program for DSOs. This program should educate DSOs on their professional responsibilities with regards to IIRIRA, the USA PATRIOT Act and SEVIS and should employ a testing mechanism to verify this understanding. In addition, the training system should include a mechanism for creating a ''professional register'' of DSOs who have completed the requisite training and are, therefore, eligible to perform this vital function. It is recommended that the program be outsourced to a private-sector company with the ability to implement such a program effectively, rapidly and at little or no cost to the Federal Government.

Fees and Expenses of Witnesses.—$156,145,000.—For fees and expenses associated with providing witness testimony on behalf of the United States, expert witnesses, and private counsel for Government employees who have been sued, charged, or subpoenaed for actions taken while performing their official duties.

Interagency Crime and Drug Enforcement.—$362,131,000.—For the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking.

Foreign Claims Settlement Commission.—$1,194,000.—To adjudicate claims of U.S. nationals against foreign governments under jurisdiction conferred by the International Claims Settlement Act of 1949, as amended, and other authorizing legislation.

Community Relations Service.—$10,732,000.—To assist communities in preventing violence and resolving conflicts arising from racial and ethnic tensions and to develop the capacity of such communities to address these conflicts without external assistance. CRS activities are conducted in accordance with title X of the Civil Rights Act of 1964. The increased authorization provided by this section is intended to support the addition of six full-time employees to accommodate the

expansion of the Community Relations Service's efforts to address heightened tension and potential for conflict in many communities in the wake of the September 11, 2001 attacks on the United States.

Assets Forfeiture Fund.—$22,949,000.—To provide a stable source of resources to cover the costs of the asset seizure and forfeiture program, including the costs of seizing, evaluating, inventorying, maintaining, protecting, advertising, forfeiting, and disposing of property.

United States Parole Commission.—$11,355,000.—For the activities of the U.S. Parole Commission. The Commission has jurisdiction over all Federal prisoners eligible for parole, wherever confined, and continuing jurisdiction over those who are released on parole or as if on parole.

Federal Detention Trustee.—$1,388,583,000.—For necessary expenses to exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the U.S. Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service.

Identification System Integration.—$24,505,000.—For expenses necessary for the operation of the Identification System Integration.

Narrowband Communications.—$149,292,000.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems.

Radiation Exposure Compensation.—such sums as necessary.—For administrative expenses in accordance with the Radiation Exposure Compensation Act.

Counterterrorism Fund.—$35,000,000.—For the reimbursement of costs authorized by section 101 of the USA PATRIOT Act (Public Law 107–56).

Office of Justice Programs.—$215,811,000.—For administrative expenses not otherwise provided for, of the Office of Justice Programs.

Legal Activities Office.—$15,942,000.—For necessary expenses related to office automation.

Section 103. Appointment of additional Assistant United States Attorneys; reduction of certain litigation positions

This section authorizes the Attorney General to transfer 200 additional Assistant U.S. Attorneys from among the six litigating divisions at the Justice Department's headquarters (Main Justice) in Washington, DC., to the various U.S. Attorneys offices around the country. Vacant positions resulting from transfers pursuant to this section will be terminated. This section is intended to raise the productivity of Washington—based lawyers, who litigate criminal and civil cases across the nation for the Justice Department, by moving them to the field. Litigating attorneys for the Government are most effective in the Federal judicial district where their cases are pending. The appointment authorization is at the discretion of the Attorney General. This provision is identical to section 101 of the Senate bill and similar to section 102 of the House bill.

Section 104. Authorization of Additional Assistant United States Attorneys for project safe neighborhoods

This section authorizes an additional Assistant United States Attorney in each of the 94 U.S. Attorney Offices to implement part of the Administration's Project Safe Neighborhoods proposal to reduce school gun violence across the Nation. These prosecutors will assist in targeting juveniles who obtain weapons and commit violent crimes, as well as the adults who place firearms in the hands of juveniles. This provision is identical to section 102 of the Senate bill.

TITLE II—PERMANENT ENABLING PROVISIONS

Section 201. Permanent authority

Section 201 amends chapter 31 of title 28, United States Code, by creating a new section, ''530C''. This section details permitted uses of available funds by the Attorney General to carry out the activities of the Justice Department. General permitted uses of available funds include:

Payment for motor vehicles, boats, and aircraft;

Payment for service of experts and consultants, and payment for private counsel;

Payment for official reception and representation expenses and public tours;

Payment of unforeseen emergencies of a confidential character;

Payment of miscellaneous and emergency expenses;

Payment of certain travel and attendance expenses;

Payment of contracts for personal services abroad;

Payment of interpreters and translators;

Payment for uniforms;

Payment for primary and secondary schooling of dependents of personnel stationed overseas; and

Payment for rewards, including authority for terrorism-related rewards previously authorized by the USA PATRIOT Act (Public Law 107–56));

Specific permitted uses of available funds include:

Payment for aircraft and boats;

Payment for ammunition, firearms, and firearm competitions; and

Payment for construction of certain facilities.

The use of funds appropriated for Fees and Expenses of Witnesses is limited to certain expenses and the construction of witness safesites. The use of funds appropriated for the Federal Bureau of Investigation is limited to the detection, investigation, and prosecution of crimes against the United States. The use of funds appropriated for the Immigration and Naturalization Service is limited to general Immigration and Naturalization Service activities. The use of appropriated funds for the Federal Prison System is limited to general function of the Federal Prison System. The use of appropriated funds for the Detention Trustee is limited to the functions authorized by law relating to the detention of Federal prisoners in non—Federal institutions or otherwise in the custody of the U.S. Marshals Service and for the detention of aliens in the custody of the INS.

The Attorney General is prohibited from compensating employed attorneys who are not duly licensed and authorized to practice under the law of a State, U.S. territory, or the District of Columbia. And reimbursement payments to governmental units of the Department of Justice, other Federal entities, or State or local governments are limited to uses permitted by the authority permitting such reimbursement payment.

The section also permits the FBI and other components of the Department of Justice to enter into cooperative projects with foreign countries to improve law enforcement or intelligence operations and to authorize the Attorney General to charge and collect a fee for training of railroad police officers. In addition, the section authorizes the Attorney General to seek reimbursement of warranty work performed at Department of Justice facilities. The administration requested these provisions in its budget submissions for fiscal year 2002 and fiscal year 2003. This provision is similar to section 201 of the Senate and House bills.

Section 202. Permanent authority relating to enforcement of laws

Section 202 amends chapter 31 of title 28, United States Code, by creating a new section, ''530D'' relating to reporting on the enforcement of laws. This section directs the Attorney General to report to Congress in any case in which the Attorney General, the President, head of executive agency, or military department:

(1) Establishes a policy to refrain from enforcing any provision of a Federal statute, rule, regulation, program, policy, or other law within the responsibility of the Attorney General;

(2) Refrains from adhering to, enforcing, applying, or complying with any other judicial determination or other statute, rule, regulation, program, or policy within the responsibility of the Attorney General;

(3) Decides to contest in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law;

(4) Refrains from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of such provision when the constitutionality of the provision is challenged; or

(5) When the Attorney General approves the settlement or compromise of any claim, suit or other action against the United States for more than $2,000,000 (excluding prejudgment interest) or for certain injunctive relief against the Government that is likely to exceed three years.

Each report, which is subject to certain time and content requirements, must be submitted to the Majority and Minority Leaders of the Senate, the Speaker of the House, House Majority Leader, House Minority Leader, and the Chairman and ranking minority member of the Senate and House Committees on the Judiciary, the Senate Legal Counsel and the General Counsel of the House of Representatives. Section 202 also includes a number of conforming amendments.

This provision is similar to section 202 of the Senate and House bills.

Section 203. Miscellaneous uses of funds; technical amendments

Section 203 provides technical amendments to the Bureau of Justice Assistance grant programs in title I of the Omnibus Crime Control and Safe Streets Act of 1968. It also makes minor amendments to the amount available to compensate attorneys specially retained by the Attorney General. This provision is identical to section 203 of the Senate bill and similar to section 204 House bill.

Section 204. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; recordkeeping; protection of the Attorney General

Section 204 makes technical amendments to section 524(c) of title 28, United States Code, clarifies the Attorney General's authority to transfer property of marginal value, and requires the use of standard criteria for the purpose of categorizing offenders, victims, actors, and those acted upon in any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose. It also requires the Attorney General to notify Congress in writing of any civil asset forfeiture award greater than

$500,000. This section further makes several clerical and technical amendments to title 28, United States Code. In addition, this section adds authority to ensure that no inference is created that the Government is liable for interest on certain retroactive payments made by the Department of Justice, and to improve financial systems and debt-collection activities. This provision is identical to section 204 of the Senate bill and similar to section 205 of the House bill.

Section 205. Oversight; waste, fraud, and abuse within the Department of Justice

Section 205 amends section 529 of title 28, United States Code, to require the Attorney General to submit an annual report to the House and Senate Committees on the Judiciary describing:

Every grant, cooperative agreement, or programmatic services contract that was made, entered into, awarded, or supplemented in the immediately preceding fiscal year by or on behalf of the Office of Justice Programs (other than one made to a governmental entity, pursuant to a statutory formula); and

A report on every grant, cooperative agreement, or programmatic services contract made, entered into, awarded, or supplemented by or on behalf of the Office of Justice Programs that was terminated or that otherwise ended in the immediately preceding fiscal year (other than one made to a governmental entity, pursuant to a statutory formula).

In addition, section 205 amends the Anti-Lobbying Act to expand its coverage to all legislative activity at the Federal and State level and establishes a new reporting requirement on the enforcement and prosecution of copyright infringements, along with a number of conforming amendments. This provision is similar to section 205 of the Senate bill and section 206 of the House bill.

Section 206. Enforcement of Federal criminal laws by Attorney General

Section 206 provides clarifying amendments to title 28, United States Code, relating to the enforcement of Federal criminal law. This provision is identical to section 206 of the Senate bill and section 207 of the House bill.

Section 207. Strengthening law enforcement in United States territories, commonwealths, and possessions

Section 207 allows the payment of a retention bonus and other extended assignment incentives to retain law enforcement personnel in U.S. territories, commonwealths and possessions. This new authority is needed to continue the fight against drug and crime problems in these areas. This provision is identical to section 208 of the Senate bill.

TITLE III—MISCELLANEOUS

Section 301. Repealers

Section 301 repeals open-ended authorizations of appropriations for the National Institute of Corrections and the U.S. Marshals Service and redundant authorizations for payment of rewards. This provision is similar to section 301 of the Senate and House bills.

Section 302. Technical amendments to Title 18 of the United States Code

Section 302 makes several minor clarifying amendments to title 18, United States Code. Section 302(3) moves a comma that became the focus of a statutory construction question in Crandon v. United States.[1] This provision is identical to section 302 of the Senate and House bills.

[1] 494 U.S. 152 (1990) (J. Scalia concurring).

Section 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal years 2004 and 2005

Section 303 requires the President to submit a Department of Justice authorization bill for fiscal years 2004 and 2005 to the House and Senate Committees on the Judiciary when the President submits his fiscal year 2004 budget request. This authorization bill should contain any recommended additions, changes or modifications to existing authorities that may be necessary to carry out the functions of the Department. Any such addition, change, or modification should be accompanied by a description of the change and the justification for the change. This provision is similar to section 303 of the Senate and House bills.

Section 304. Study of untested rape examination kits

Section 304 requires the Attorney General to conduct a study and assessment of untested rape examination kits that currently exist nationwide, including information from all law enforcement jurisdictions. The Attorney General is required to submit a report of this study and assessment to the Congress. This provision is identical to section 304 of the Senate bill and section 305 of the House bill.

Section 305. Reports on use of DCS 1000 (carnivore)

Section 305 requires the Attorney General and Director of the Federal Bureau of Investigation to submit a timely report to the House and Senate Committees on the Judiciary detailing, among other things, as:

(1) The kind and number of orders or extensions applied for to authorize the use of the DCS 1000 program (or any subsequent version of such program);

(2) The period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(3) The offense specified in the order or application, or extension of an order;

(4) The number and nature of the facilities affected;

(5) The identity of the applying investigative or law enforcement agency making the application for an order; and

(6) The specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program).

This provision is identical to section 305 of the Senate bill and is similar to section 306 of the House bill.

Section 306. Study of allocation of litigating attorneys

Section 306 requires the Attorney General to report to Congress within 180 days of enactment of this bill on the allocation of funds, attorneys, and other personnel, per-attorney workloads for each office of U.S. Attorney and each division of the Department of Justice. This provision is identical to section 306 of the Senate bill.

Section 307. Use of Truth-in-Sentencing and Violent Offender Incarceration Grants

Section 307 provides States with flexibility to use existing Truth-In-Sentencing and Violent Offender Incarceration Grants to account for juveniles being housed in adult prison facilities. This provision is identical to section 307 of the Senate bill.

Section 308. Authority of the Department of Justice Inspector General

Section 308 would amend Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) to provide explicit statutory authority for the Office of the Inspector General (''OIG'') to investigate all allegations of criminal or administrative misconduct by DOJ employees, including FBI personnel. The OIG is also authorized to refer certain matters to the FBI Office of Professional Responsibility or to the internal affairs office of the appropriate component of the Department. The Attorney General is directed to promulgate regulations implementing this OIG authority. The section would make clear that the OIG may investigate alleged misconduct by DOJ component heads.

For many years, the FBI was excluded from OIG jurisdiction and the FBI's own internal Office of Professional Responsibility had sole authority to investigate FBI personnel misconduct, unless the Attorney General made an exception. The FBI's exclusive domain to investigate its own misconduct was unique in the Department and created the appearance of a conflict of interest. On July 11, 2001, Attorney General Ashcroft issued a new rule expanding the OIG's jurisdiction over the FBI. This section is consistent with, and codifies, the Attorney General's new rule.

This provision is similar to section 308 of the Senate bill.

Section 309. Review of the Department of Justice

To ensure that the OIG has the necessary structure and resources to effectively assume its new jurisdiction over the FBI and that the Congress is fully informed of such needs, this section requires the Inspector General to: (1) appoint an official to help supervise and coordinate oversight operations and programs of the FBI during the transition period; (2) conduct a comprehensive study of the FBI and report back to the House and Senate Judiciary Committees with a plan for auditing and evaluating various parts of the FBI (including information technology) and for effective continued OIG oversight; and (3) report back to the House and Senate Judiciary Committees on whether an Inspector General for the FBI should be established. The section would add a requirement to report on FBI administrative changes to implement the OIG authority, on different internal investigative methods used by DOJ components and steps to bring uniformity, and on whether recommended guidelines should be developed for the discipline of DOJ personnel for misconduct. This provision is similar to section 309 of the Senate bill and section 304 of the House bill.

Section 310.—Authorization of appropriations

The conferees agreed to add this section to authorize appropriations for the OIG and the FBI Office of Professional Responsibility for fiscal year 2003.

Subsection (a) would authorize $2,000,000 to be appropriated to the Department of Justice for fiscal year 2003 for three purposes: first, to increase the staffing level of the OIG by 25 full-time employees to conduct an increased number of audits, inspections, and investigations of alleged misconduct by FBI employees; second, to fund additional audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and third, to conduct special reviews of FBI efforts to implement recommendations made by the OIG in reports on alleged misconduct by the Bureau.

Subsection (b) would authorize $1,700,000 to be appropriated to the FBI for fiscal year 2003 to increase the staffing level of the FBI Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

Section 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families

Section 311 repeals a burdensome reporting requirement on the compilation of statistics relating to intimidation of Government employees and requires the Attorney General to

report to Congress not later than 45 days after the end of the fiscal year 2002 on the number of investigations and prosecutions on threats and assaults against Federal law enforcement officers, U.S. judges, U.S. officials and their families. This provision is similar to section 311 of the Senate bill and the repeal provision is identical to the repeal provision in section 301 of the House bill.

Section 312. Additional Federal judgeships

Section 312 authorizes eight new permanent judgeships as follows: five judgeships in the Southern District of California, two judgeships in the Western District of Texas, and one judgeship in the Western District of North Carolina. It would also convert four temporary judgeships to permanent judgeships—one each in the Central District of Illinois, the Southern District of Illinois, the Northern District of New York, and the Eastern District of Virginia. Additionally, section 312 creates seven new temporary judgeships, one each in the Northern District of Alabama, the District of Arizona, the Central District of California, the Southern District of Florida, the District of New Mexico, the Western District of North Carolina, and the Eastern District of Texas. Finally, it extends the temporary judgeship in the Northern District of Ohio for five years.

TITLE IV—VIOLENCE AGAINST WOMEN

Section 401. Short title

Section 401 establishes the ''Violence Against Women Office Act'' as the short title.

Section 402. Establishment of Violence Against Women Office

Section 402 specifies that Part T of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3796gg et seq.) will be amended by the following insertion, and changes the existing paragraph numbers to incorporate the amendment.

Section 2002. Establishment of Violence Against Women Office

Section 2002 creates a separate and independent Violence Against Women Office (hereinafter the ''Office'') in the Department of Justice, under the general authority of the Attorney General. The Office shall be headed by a Director who reports directly to the Attorney General and has final authority over all grants, cooperative agreements and contracts awarded by the Office.

Section 2002 also affirms that the Office has the sole jurisdiction over all the duties and functions delineated for the Director in Section 2004, and that the Office is solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (Title VI of Public 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386). For instance, since its inception in 1995, the Violence Against Women Office has handled and coordinated the Department of Justice's legal and policy issues regarding violence against women—everything from enforcing protection orders across state lines to issuing annual reports on stalking. The jurisdiction provision ensures that coordination such as this will continue.

In addition, the Violence Against Women Office also works with other federal agencies, such as the Department of Housing and Urban Development, the Department of Health and Human Services, and the Immigration and Naturalization Service about federal policies, programs, statutes, and regulations that impact violence against women such as immigration procedures for battered immigrant women, public housing assistance for battered women and their children, and women's health programs. Pursuant to this jurisdiction section, inter-department coordination such as this will continue.

Section 2003. Director of Violence Against Women Office

Section 2003 establishes that the Office shall be headed by a Director appointed by the President and confirmed by the Senate. In addition, the Director is prohibited from other employment during service as Director. This provision specifies that compensation for the Director shall not exceed the rate payable for Level V of the Executive Schedule under §5316 of Title 5, United States Code.

Section 2004. Duties and functions of director of Violence Against Women Office

Section 2004 delineates the duties and functions of the director and correspondingly, the jurisdiction of the Office as set forth in §2002 and they are as follows:

(1) Maintaining liaison with the judicial branches of the Federal and State governments on matters relating to violence against women;

(2) Providing information to the President, the Congress, the judiciary, State, local and tribal governments, the general public on matters relating to violence against women;

(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women;

(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations;

(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (Title IV of Public Law 103–322) and the Violence Against Women Act of 2000 (Division B of Public Law 106–386) including with respect to those functions—

(A) the development of policy, protocols, and guidelines;

(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs;

(C) the award and termination of grants, cooperative agreements, and contracts.

(6) Providing technical assistance, coordination, and support to—

(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

(B) other Federal, State, local and tribal government agencies, in efforts to develop policy, provide technical assistance and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and (C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General; and

(8) Establishing such rules, regulations, guidelines and procedures as are necessary to carry out any function of the Office.

Pursuant to §2004(3), the Director and the Office will continue to participate in task forces, commissions, committees, working groups such as the Violence Against Women Coordinating Council in the Department of Justice, Office of Justice Programs Indian Issues Working Group, and the Department of Defense Task Force on Domestic Violence.

Section 2005. Staff of Violence Against Women Office

Section 2005 requires the Attorney General to ensure that the Office receives adequate staff to support the Director in carrying out the responsibilities, duties and functions.

Section 2006. Authorizations of appropriations

Section 2006 authorizes the appropriations of such sums as may be necessary to carry out this title for each fiscal year until fiscal year 2005, the year through which the Violence Against Women Act is authorized.

Section 403. Effective date

Section 403 states that this Title shall take effect 90 days after the date of enactment of this amendment.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUB OF AMERICA

Section 1101.—Boys and Girls Clubs of America

Section 1101 authorizes DOJ grants to the Boys and Girls Clubs of America to help establish 1,200 additional Boys and Girls Clubs across the nation with the goal of having 4,000 Boys and Girls Clubs in operation by January 1, 2007. This provision is similar to section 1101 of the Senate bill.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2001

Section 2001. Short title

Section 2001 provides that the short title of this Act shall be the Drug Abuse Education, Prevention, and Treatment Act of 2001. It is the same as section 2001 of the Senate bill.

Subtitle A—Drug-Free Prisons and Jails

Section 2101. Use of residential substance abuse treatment grants to provide for services during and after incarceration

Section 2101 authorizes the use of Residential Substance Abuse Treatment Grants for treatment and sanctions both during incarceration and after release, as requested in the Administration's fiscal year 2002 budget request. This provision is identical to section 310 of the Senate bill.

Section 2102. Jail-based substance abuse treatment programs

Section 2102 provides grants to States for jail-based substance abuse programs, and requires States to make at least 10 percent of funds received under this section available to local correctional facilities. It is similar to section 2102 of the Senate bill.

Section 2103. Mandatory revocation of probation and supervised release for failing a drug test

Section 2103 amends 18 U.S.C. sections 3565(b) and 3583(g) to provide for mandatory revocation of probation or supervised release if a defendant tests positive for illegal controlled substances more than three times over the span of one year. This provision is identical to section 2103 of the Senate bill.

Subtitle B—Treatment and Prevention

Section 2201. Report on drug-testing technologies

Section 2201 directs the National Institute of Justice to conduct a study of drug-testing technologies to identify and assess the efficacy, accuracy, and usefulness of such technologies. It is similar to section 2209 of the Senate bill.

Section 2202. Drug and substance abuse treatment, prevention, education, and research study

Section 2202 instructs the President, in consultation with the Attorney General, the Secretary of Health and Human Services, the Secretary of Education, and other appropriate Federal officers, to review all federal

drug treatment, prevention, education, and research programs and recommend to Congress ways in which those programs could be streamlined, consolidated, simplified, coordinated, and made more effective.

Section 2203. Drug abuse and addiction research

Section 2203 authorizes the expansion of current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction. It is similar to section 2208 of the Senate-passed bill.

Subtitle C—Drug Courts

Sec. 2301. Drug courts

Section 2301 authorizes the Attorney General to make grants to States to fund adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts. Drug court programs receiving funds may only involve nonviolent offenders and must involve continuing supervision over those offenders, coordination with appropriate State or local prosecutor, and the provision of services such as drug treatment. The Attorney General is also required to implement recommendations of the General Accounting Office to improve the accountability and track the success of drug court programs throughout the nation. This section is similar to section 2401 of the Senate bill.

Sec. 2302. Authorization of appropriations

Section 2302 authorizes appropriations of $50 million for fiscal year 2002, $54 million for fiscal year 2003, $58 million for fiscal year 2004, and $60 million for fiscal year 2005. This section is similar to section 2402 of the Senate bill.

Sec. 2303. Study by the General Accounting Office

Section 2303 instructs the GAO to study and assess the effectiveness and impact of grants made under this subtitle.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

Sec. 2411. Post incarceration vocational and remedial educational opportunities for inmates

Section 2411 establishes a Federal Reentry Center Demonstration project, under which individualized plans will be developed to reduce recidivism by offenders to be released from the Federal prison population. Among other things, the project will include substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training. The project will also include a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project. It is similar to section 2511 of the Senate bill.

Sec. 2421. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968

Section 2421 authorizes the Attorney General to make grants of up to $1 million to States, Territories, and Indian tribes to establish demonstration projects to promote successful reentry of criminal offenders. Funds can be expended for oversight and monitoring of released offenders, substance abuse treatment, and other purposes. This provision is similar to section 2521 of the Senate bill.

Subtitle E—Other Matters

Sec. 2501. Amendment to Controlled Substances Act

Section 2501 makes a technical amendment to the Drug Abuse Treatment Act, which was signed into law last year, to amend the opt-out time limit from the date of passage of the Act to the date of Food and Drug Administration approval of the type of drugs authorized to be prescribed under the Act. This provision is identical to section 2951 of the Senate bill.

Sec. 2502. Study of methamphetamine treatment

Section 2502 amends section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 to request that the National Institute on Drug Abuse produce a report that the Act directed the Institute of Medicine of the National Academy to produce. This provision is identical to section 2952 of the Senate bill.

Sec. 2503. Authorization of funds for DEA police training in South and Central Asia

Section 2503 authorizes not less than $5 million for fiscal year 2003 to the Attorney General for regional antidrug training by the Drug Enforcement Administration for law enforcement entities in South and Central Asia.

Sec. 2504. United States-Thailand drug prosecutor exchange program

Section 2504 authorizes the Attorney General to establish an exchange program in which prosecutors, judges, or policymakers from Thailand participate in an exchange program to observe federal prosecutors to learn about the various rules and procedures used in the United States to prosecute violations of federal criminal narcotics laws. The section authorizes $75,000 for fiscal years 2003 and 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM

Sec. 3001. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants

Section 3001 would increase the statutory maximum sentence for witness tampering that involves the use of physical force. Under current law, a defendant convicted of using physical force to tamper with a witness, victim or informant faces a maximum sentence of 10 years. This section would increase the maximum for the use or attempted use of force to 20 years, which is the same sentence available for a defendant who tampers with a witness by attempted murder. The increased penalty is justified because the use of physical force is often comparably egregious to attempted murder, such as where the victim, witness or informant is severely beaten, even though the government cannot prove the specific intent to commit murder. Judges should have the authority to sentence accordingly. This section would also add a provision for conspiracy cases making the maximum sentence for conspiracy the same as the maximum sentence for the underlying substantive offense. This provision is similar to section 4001 of the Senate bill.

Sec. 3002. Correction of aberrant statutes to permit imposition of both a fine and imprisonment

This section would allow the court to impose both a fine and imprisonment under certain aberrant statutes that presently permit the imposition of only one of these punishments, but not both. The statutes at issue are 18 U.S.C. §401 (criminal contempt); 18 U.S.C. §1705 (destruction of letter boxes); 18 U.S.C. §1916 (unauthorized employment or disposition of lapsed appropriations); 18 U.S.C. §2234 (willfully exceeding authority in executing a search warrant); 18 U.S.C. §2235 (maliciously procuring and executing a search warrant); and 28 U.S.C. §§636(e)(2) & (3) (criminal contempt by magistrates). Although the general policy of the Sentencing Reform Act of 1984 that courts should have multiple sentencing options, see 18 U.S.C. §3551(b) (''A sentence to pay a fine may be imposed in addition to any other sentence.''), these statutes stand as an anomalous exception to that policy, see *United States* v. *Versaglio*, 85 F.3d 943, 946–47 (2d Cir. 1996) (notwithstanding §3551(b), court many not impose both imprisonment and a fine under §401); *United States* v. *Holloway*, 991 F.2d 370, 373 (7th Cir. 1993) (same).

Of the statutes that limit the court to a single sentencing option, only section 401 has generated case law concerning the effect of its disjunctive sentencing provisions. These cases have resulted in windfalls for undeserving defendants when judges who are unaware of the unusual restriction on their sentencing authority mistakenly impose an illegal sentence of both a fine and imprisonment. If the defendant tenders payment of the fine before the error is corrected, the sentence is deemed to have been fully satisfied and the term of imprisonment must be vacated. See *In re Bradley*, 318 U.S. 50 (1943); *United States* v. *Catalano*, 1996 WL 387220 (2d Cir. July 11, 1996); Versaglio, 85 F.3d at 948; *United States* v. *Holmes*, 822 F.2d 481 (5th Cir. 1987); *United States* v. *Sampogne*, 533 F.2d 766, 767 (2d Cir. 1976). In effect, the defendant can buy immunity from imprisonment by immediately paying the fine and then filing an appeal challenging only the prison term. Even where it is clear that the sentencing court would have imposed a prison term rather than a fine if it had correctly understood its options, the defendant must be allowed to go free, with no possibility of the case being remanded for resentencing. While these decisions may be compelled by the plain wording of the statute, their outcomes are hardly satisfactory. As Chief Justice Stone remarked in his dissenting opinion in *Bradley*, it is unjust that ''the choice rests with the offender rather than with the court whether he shall be punished by fine or by imprisonment, either of which alone the court could have lawfully imposed; and that by payment of the fine, imposed and accepted under mistake of law . . . he may irrevocably escape punishment by imprisonment.'' 318 U.S. at 53; see also *Holmes*, 822 F.2d at 505 (Brown, J., dissenting) (''The Constitution does not require that sentencing should be a game in which the wrong move by a judge means immunity for the prisoner.'').

There is no sound reason to limit a court's sentencing authority under the statutes at issue to only a fine or imprisonment. No legislative history apparently exists to explain the reasons for these disjunctive sentencing provisions. Indeed, the Senate Judiciary Committee has previously remarked that this feature of section 401 was probably unintended and proposed correcting it in the Criminal Code Reform Act of 1979. See S. Rep. No. 96–553 at 355 (96th Cong. 2d Sess.). The correction is long overdue. The proposed amendment would therefore insert the phrase ''or both'' after the language authorizing a fine or imprisonment in the affected statutes. This section is identical to section 4002 of the Senate-passed bill.

Sec. 3003. Reinstatement of counts dismissed pursuant to a plea agreement

This section would create a new provision, to be codified at 18 U.S.C. §3296, which would extend the statute of limitations for counts dismissed pursuant to a plea agreement when the defendant's guilty plea is subsequently vacated. There have been cases where a defendant is indicted on one set of charges and pleads guilty to lesser counts pursuant to a plea bargain, but then later succeeds in getting the guilty plea vacated. If the plea is vacated after the statute of limitations on the original set of charges has run, courts have held that those charges cannot be reinstated and that the case is time-barred. Thus, the defendant can no longer be prosecuted even though the government acted with all reasonable diligence in bringing the case. See *United States* v. *Midgley*, 142

F.3d 174, 178–80 (3d Cir. 1998); *United States* v. *Podde*, 105 F.3d 813 (2d Cir. 1995). The bill would close this loophole by giving the government 60 days after the order vacating the defendant's plea becomes final to move to reinstate any charges dismissed pursuant to a plea agreement. This approach is analogous to that of 18 U.S.C. §3288, which grants the government a grace period to obtain a new indictment when counts are dismissed after the expiration of the statute of limitations.

The new section 3296 would not prevent the court from considering any defense other than statute of limitations to the reinstated charges. Thus, for example, defendants who contend that their ability to defend against the reinstated counts has been irreparably prejudiced by the passage of time retain their ability to bring a constitutional speedy trial claim, see *Barker* v. *Wingo*, 407 U.S. 514 (1972), as well as any other defenses to the prosecution they would otherwise have. This provision is identical to section 4003 of the Senate bill.

Sec. 3004. Appeals from certain dismissals

This section clarifies that 18 U.S.C. §3731 authorizes an appeal by the United States, consistent with the Double Jeopardy clause, whenever a district court enters an order dismissing or striking part of an indictment or information. Section 3731 confers broad authority on the United States to appeal orders of district courts that dismiss an indictment or information either in whole or as to ''any one or more counts.'' The statute was designed to permit the United States to appeal virtually all adverse rulings in criminal cases, when not precluded from doing so by the Double Jeopardy Clause of the Constitution, and contains a final sentence stating that the ''provisions of this section shall be liberally construed to effectuate its purposes.'' As a result of this language, the statute has generally been generously interpreted to allow government appeals, even when its literal language does not clearly extend to the case, such as where a district court has dismissed only a portion of a count such as a predicate act in a RICO count or an overt act in a conspiracy count. See, e.g., *United States* v. *Levasseur*, 846 F.2d 786 (1st Cir. 1988) (appeal held to lie where predicate acts were stricken from a RICO count). This approach is consistent with the Supreme Court's observation that section 3731 permits ''an appeal from an order dismissing only a portion of a count.'' *Sanabria* v. *United States*, 437 U.S. 54, 69 n.23 (1978). However, one federal circuit has held that section 3731 does not permit any government appeals from the dismissal of only part of a count. See *United States* v. *Louisiana Pacific Corporation*, 106 F.3d 345 (10th Cir. 1997). In other cases, appellate review of orders dismissing predicate acts or overt acts has been denied where the dismissed acts could not themselves have been charged in separate counts. See *United States* v. *Terry*, 5 F.3d 874 (5th Cir. 1993); *United States* v. *Tom*, 787 F.2d 65 (2d Cir. 1986).

It is time to resolve these conflicting results definitively. The reach of section 3731 should clearly be extended to orders dismissing portions of counts. Although the Solicitor General, who must approve all appeals by the United States to a court of appeals, only seldom authorizes appeals from partial dismissals of counts in criminal cases, there is no reason not to permit the government to appeal when the issue involved is important and determined by the Solicitor General to be worthy of presentation to a higher court. Indeed, there are some cases where the dismissal of a predicate act or overt act may substantially weaken the government's ability to prove its case. The proposed amendment would therefore insert the phrase ''or any part thereof'' in section 3731 so as to make clear that dismissals of any part of a count are subject to appeal by the United States in appropriate circumstances. This provision is identical to section 4004 of the Senate bill.

Sec. 3005. Clarification of length of supervised release terms in controlled substance cases

This section resolves a conflict in the circuits as to the permissible length of supervised release terms in controlled substance cases. Under 18 U.S.C. 3583(b), ''[e]xcept as otherwise provided,'' the maximum authorized terms of supervised release are 5 years for Class A and B felonies, 3 years for Class C and D felonies, and 1 year for Class E felonies and certain misdemeanors. The drug trafficking offenses in 21 U.S.C. §§841 and 960 prescribe special supervised release terms, however, that are longer than those applicable generally under section 3583(b). Those longer terms, which may include lifetime supervised release, were enacted in 1986 in the same Act that inserted the introductory phrase ''Except as otherwise provided'' in section 3583(b). Because of this clear legislative history and intent, three courts of appeals have held that section 3583(b) does not limit the length of supervised release that may be imposed for a violation of 21 U.S.C. §§841 or 960 when a greater term is there provided. *United States* v. *LeMay*, 952 F.2d 995, 998 (8th Cir. 1991); *United States* v. *Eng*, 14 F.3d 165, 172–3 (2d Cir. 1994); *United States* v. *Garcia*, 112 F.3d 395 (9th Cir. 1997). Two courts of appeals, however, have reached the opposite result, holding that the length of a supervised release term that can be imposed for controlled substance cases is limited by 18 U.S.C. §3583(b). *United States* v. *Gracia*, 983 F.2d 625, 630 (5th Cir. 1993); *United States* v. *Kelly*, 974 F.2d 22, 24–25 (5th Cir. 1992); *United States* v. *Good*, 25 F.3d 218 (4th Cir. 1994).

Although the issue has not arisen with frequency, the conflict is entrenched and should be dealt with definitively. Accordingly, the amendment would add the words ''Notwithstanding section 3583 of title 18'' to the title 21 controlled substance offenses in the parts of those statutes dealing with supervised release to make clear that the longer terms there prescribed control over the general provision in section 3583. Of course, the Sentencing Guidelines would continue to govern the permissible length of supervised release terms under the amended statutes. This provision is identical to section 4005 of the Senate bill.

Sec. 3006. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases

This section would confer express authority on courts under section 3582(c)(1)(A), when exercising the power to reduce a term of imprisonment for extraordinary and compelling reasons, to impose a sentence of probation or supervised release with or without conditions. Such added flexibility is consistent with the purposes for which this statute was designed and will likely facilitate its use in appropriate cases.

Under 18 U.S.C. 3582(c)(l)(A), a court is authorized, on motion of the Bureau of Prisons and consistent with the purposes of sentencing in 18 U.S.C. 3553, to ''reduce the term of imprisonment'' upon a finding that ''extraordinary and compelling reasons'' warrant such a reduction. This limited authority has been generally utilized when a defendant sentenced to imprisonment becomes terminally ill or develops a permanently incapacitating illness not present at the time of sentencing. In such circumstances, the situation of a prisoner (e.g., one suffering from a contagious debilitating disease), may make a court reluctant simply to release the prisoner back into society unless another sentencing option such as home confinement as a condition of supervised release or probation can be imposed. Presently, however, it is doubtful whether a court can order such a sentence since section 3582(c)(1)(A) speaks only in terms of reducing ''the term of imprisonment,'' not imposing in its stead a lesser type of sentence. Cf. Fed. R. Crim. P. 35(b), which gives a court the power to ''reduce a sentence'' to reflect substantial assistance. The proposed language also makes it clear that any new term of supervised release or probation cannot be longer than the unserved portion of the original prison term, as it is not intended that this provision be used to increase the total amount of time that a person's liberty is restricted. This provision is identical to section 4006 of the Senate bill.

Sec. 3007. Clarification that making restitution is a proper condition of supervised release

This section would remedy an ambiguity relating to restitution as a condition of supervised release. Under 18 U.S.C. 3583(c) and (e), the court is authorized to consider various sentencing factors set forth in 18 U.S.C. 3553 as a basis for imposing restitution as a condition of supervised release or for revoking or modifying the conditions of supervised release. Supervised release is among the purposes of sentencing enumerated in section 3553, in paragraph (a)(7), but is not among the factors enumerated in section 3583(c) and (e). However, 18 U.S.C. 3583(c) also authorizes the court to impose any condition of supervised release that is an authorized condition of probation under 18 U.S.C. 3563(b), and making restitution is among those conditions (see section 3564(b)(2)). Thus, it appears clear that a court has authority to impose a restitution condition upon a term of supervised release. But the absence of a reference to section 3553(a)(7) in the revocation subsection of section 3583 raises a question whether, even though it is an authorized condition of supervised release, a court has authority to revoke or modify the term for willful failure to make restitution. Such authority is probably implicit and was surely intended by Congress. See *United States* v. *Payan*, 992 F.2d 1387, 1395–96 (5th Cir. 1993). This amendment would provide a reference to section 3553(a)(7) in the supervised release statute and remove any ambiguity in this regard. Of course, even under the amended statute, a court could not revoke or modify the defendant's supervised release for failure to pay restitution unless the defendant had the resources to pay and willfully refused to do so. See *Bearden* v. *Georgia*, 461 U.S. 660 (1983); *Payan*, 992 F.2d at 1396–97. This provision is identical to section 4007 of the Senate bill.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

Sec. 4001. Short title

This section provides that the short title of the act shall be the ''Criminal Law Technical Amendments Act of 2002.'' This provision is similar to section 5001 of the Senate bill.

Sec. 4002. Technical amendments relating to criminal law and procedure

This section makes over 60 separate technical changes to various criminal statutes by correcting missing and incorrect words, margins, punctuation, redundancies, outmoded fine amounts, cross references, and other technical and clerical errors. This provision is identical to section 5002 of the Senate bill.

Sec. 4003. Additional technicals

Section 4003 makes additional technical changes to criminal statutes, and is similar to section 5003 of the Senate bill.

Sec. 4004. Repeal of outmoded provisions

This provision is similar to section 5004 of the Senate bill.

Sec. 4005. Amendments resulting from public law 107–56

This provision is identical to section 5005 of the Senate bill.

Sec. 4006. Cross reference correction

The conferees agree to add this section to make a technical correction to the International Convention for the Suppression of Terrorist Bombings.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

Sec. 5001. Paul Coverdell Forensic Sciences Improvement Act

Section 5001 amends the Paul Coverdell National Forensic Sciences Improvement Act of 2000 to permit local crime labs to receive grants. In addition, the section allows the Attorney General to make discretionary grants to any State or locality after considering the state crime rate and existing crime lab resources and requires each State to include in its report to the Attorney General on the comparison of pre-grant and post-grant forensic science capabilities, and an identification of the number and type of cases currently accepted by the laboratory. This provision is identical to section 7001 of the Senate bill.

Sec. 5002. Authorization of appropriations

Section 5002 authorizes to be appropriated for each of fiscal years 2002 through 2007 such sums as necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama; the Texas Engineering Extension Service of Texas A&M University; the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology; the Academy of Counterterrorist Education at Louisiana State University; the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site; the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania. This provision is similar to section 7002 of the Senate bill.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE AND IMMIGRATION

Subtitle A—General Improvements

Sec. 11001. Law Enforcement Tribute Act

Section 11001 makes findings regarding the number of law enforcement and public safety officers currently serving in the United States and the number assaulted, injured or killed in the line of duty each year. Congress finds that these officers risk their safety to serve the citizens of their communities. This section makes the finding that many of the communities do not have the resources to properly honor the fallen officers that have served them.

This section authorizes the Attorney General to award matching grants up to 50 percent of the cost of the tribute directly to a State, local government or Indian Tribe in an amount not to exceed $150,000. It provides that Indian Tribes may use any funds appropriated by Congress for activities of the Bureau of Indian Affairs or Indian tribal government to meet the matching requirements.

This section also requires any application for funds under this bill to meet the criteria established by the Attorney General. It requires the Attorney General to provide an annual report to provide Congress with information regarding the number of grants awarded, the amount of funds provided for those grants, and the activities for which the funds were used.

This section includes an authorization of $3 million for each fiscal year 2002–2006, which results in a total authorization of $15 million over 5 years.

Sec. 11002. Disclosure of grand jury matters relating to money laundering offenses

In general, information relating to the investigation of a matter before a grand jury is subject to strict protection and may not be disclosed. Section 3322 of title 18, United States Code, provides limited exceptions to this rule, permitting bank regulators to obtain information in certain cases to ensure that they can continue to supervise banking organizations involved in law enforcement investigations. The statute, enacted following the savings and loan crisis and the extensive law enforcement efforts necessitated by bank and thrift failures, does not, however, cover money laundering cases. Section 11002 would amend 18 U.S.C. 3322 so that the Justice Department may obtain a court order to share grand jury information with bank supervisors if an investigation involves money laundering.

Sec. 11003. Grant program for State and local domestic preparedness support

This section makes technical corrections and adds additional uses to the Office of Domestic Preparedness grants to support state and local law enforcement agencies and other first responders prepare for and prevent terrorist attacks as authorized by section 1014 of the USA PATRIOT Act (Public Law 107–56).

The conferees strongly encourage the Department of Justice through the Office of Domestic Preparedness to support a public safety pilot project initiated by the Pennsylvania State Association of Boroughs designed to inventory the infrastructure and resources of five participating central Pennsylvania boroughs using GIS technology for the purpose of analyzing security risks and possible responses. Data collected on the five boroughs will be stored in an online searchable database or ''information warehouse.'' Data collected will include roads, water resources, stadiums, energy plants, hazardous materials locations and other assets.

Sec. 11004. United States Sentencing Commission access to NCIC terminal

This section authorizes the U.S. Sentencing Commission to access the National Crime Information Center information system at the Federal Bureau of Investigation.

Sec. 11005. Danger pay for FBI agents

Section 11005 provides special ''danger pay'' allowances for FBI agents in hazardous duty locations outside the United States, as is provided for agents of the Drug Enforcement Administration. The president's budget submission for fiscal years 2002 and 2003 requested this change in law. This section is identical to section 210 of the Senate-reported bill.

Sec. 11006. Police corps

Section 11006 extends the Police Corps' authorization for an additional four years. It also deletes the provisions that now give $10,000 a year to participating police agencies, thereby reducing the per-officer cost of the program by 30% and making funds available to support more officers; and updates the maximum for scholarship payments, from $7,500 (set when the bill was introduced in 1989) to $10,000 per year.

Sec. 11007. Radiation exposure compensation technical amendments

The Radiation Exposure Compensation Act (''RECA'') Amendments of 2000, P.L. 106–245, inadvertently eliminated some claimants previously eligible for compensation, and made it more difficult for other claimants to prove eligibility. The technical amendments included in section 11007 are:

Duration of Employment Standard as an Alternative to Radiation Exposure Levels—Under RECA as amended by P.L. 106–245, uranium miners are required to prove exposure to at least 40 working level months (WLMs) of radiation. Uranium millers and ore transporters are required to demonstrate employment in a mill or as an ore transporter for one full year. During the last congressional session, proposed amendments to P.L. 106–245 by Senators Hatch and Daschle sought to eliminate the WLM exposure requirement for miners and substitute a one-year duration of employment requirement—identical to the one in place for millers and ore transporters. There are many miners, however, who worked for less than one year in uranium mines but who still were exposed to significant levels of radiation exposure and could easily qualify for eligibility with a 40 WLM standard. The proposed technical amendment would allow uranium miners to qualify by meeting either the 40 WLM exposure standard or the one year duration of employment standard.

Reinsert a ''Downwinder'' Area Erroneously Stricken from Act by P.L. 106–245—In amending the list of ''downwinder'' areas, P.L. 106–245 inadvertently eliminated a portion of Mohave County, Arizona (located north of the Grand Canyon) that was previously compensable under RECA. As a consequence, claimants who reside in this portion of Mohave County are no longer eligible for compensation. The proposed technical amendment would again include this area in the definition of ''downwinder'' areas.

Remove Disparity for Downwinder and Onsite Participant ''Lung Cancer'' Claimants—P.L. 106–245 added seven new cancers to the list of compensable cancers for the ''downwinder'' and ''onsite participant'' provisions of RECA. These include: cancers of the male breast, salivary gland, urinary bladder, brain, colon, ovary and lung. With the exception of lung cancer, the Act now requires all compensable cancers to be ''primary''—to originate in the specified organ or tissue. The proposed technical amendment would require that all compensable cancers be ''primary'' and thus eliminate the distinction inadvertently created by the amendments between lung cancer claimants and claimants with other compensable cancers.

Remove Inconsistent Treatment for Claimants with In Situ Lung Cancers—As a result of the recent amendments, RECA treats ''downwinder'' and ''onsite participant'' claimants with in situ lung cancer more stringently than uranium worker claimants. Presently, under the amended ''downwinder'' and ''onsite participant'' provisions, compensation is available for lung cancer ''other than in situ lung cancer that is discovered during or after a post-mortem exam.'' This restricts compensation for in situ lung cancer to claimants who are living. No similar restriction exists for uranium worker claimants with in situ lung cancer. The proposed technical amendment would ensure consistent treatment of in situ lung cancer among all categories of claimants, and eliminate the distinction based on the timing of lung cancer diagnosis.

Uranium Miners, Mill Workers, and Ore Transporters with Lung Cancer Should Not be Required to Show Evidence of Non-Malignant Respiratory Disease—As amended by P.L. 106–245, RECA requires (in cases where the claimant is living) the submission of the same medical documentation for proof of a ''non-malignant respiratory disease'' and ''lung cancer.'' While the documentation required is appropriate for purposes of establishing a non-malignant respiratory disease,

it is not medically appropriate for establishing lung cancer. The requirement precludes most lung cancer claimants who do not also suffer from a non-malignant respiratory disease from establishing eligibility for compensation. The proposed technical amendment would eliminate the requirement that claimants with lung cancer also submit proof of a non-malignant respiratory disease.

Requiring Claimants to Prove Uranium Mines in States Not Designated as ''AEC Mines'' is Inappropriately Restrictive—P.L 106–245 amended the Act to allow uranium miner claimants to qualify for compensation if an additional state not designated in the Act establishes that the ''Atomic Energy Commission'' (AEC) operated a uranium mine in the State between January 1, 1942 and December 31, 1971. The provision states that once the State has been certified for inclusion as a uranium mining state, a claimant may demonstrate employment in that state. The AEC, however, did not exist prior to January 1, 1947. Maintaining the requirement is confusing for claimants employed in uranium mines between 1942 and 1946 in a state other than the one designated in the Act and may prevent them from qualifying for compensation. The proposed technical amendment would eliminate the requirement that a state operated an AEC uranium mine.

Section 6(i) ''Issuance of Regulations'' Misplaced—The new provision regarding ''issuance of revised regulations'' should amend ''Section 6(k) Issuance of Regulations, Guidelines and Procedures.'' P.L. 106–245 inadvertently amends ''Section 6(i) Use of Existing Resources.''

Section on ''Affidavits'' Misplaced—P.L. 106–245 fails to enumerate a section for the newly-added provision regarding ''affidavits.'' The provision regarding affidavits should be added as new section ''Section 6(m) Affidavits.''

Omission of Uranium Millers and Ore Transporters from ''Full Settlement of Claims'' Provision—P.L. 106–245 did not amend the Act's ''full settlement of claims'' provision (Sec. 6(e)) to provide that acceptance of payment under the new claimant categories—uranium millers and ore transporters—shall be in full settlement of all claims that individual may have against the United States. Presently, the provision applies only to the original RECA claimant categories. The technical amendment would correct the omission by providing that acceptance of payment shall be in full settlement of claims arising out of exposure to radiation with respect to all clamant categories. The technical amendment also takes into consideration the availability of additional compensation under the new Department of Energy compensation program (Energy Employees' Occupational illness Compensation Program Act).

''Choice of Remedies'' Provision Requires Clarifying Language—P.L. 106–245 did not amend the Act's ''choice of remedies'' provision which prevents double recovery for individuals seeking payment under multiple sections of the Act. Presently, the Act's ''choice of remedies'' provision eliminates double recovery as between ''Downwinders,'' ''Onsite participants,'' and ''Uranium Miners.'' With the addition of the two new claimant categories—''Millers'' and ''Ore Transporters''—the provision is presently unclear as to whether multiple payments are now available. The technical amendment would clarify the ''choice of remedies'' provision to plainly state that there is no possibility of a double recovery under the amended Act.

Section on ''GAO Reports'' Misplaced—P.L 106–245 fails to enumerate a section for the provision regarding ''GAO Reports.'' The provision regarding GAO Reports should be added as new section ''Sec. 14. GAO Reports.''

Sec. 11008. Federal Judiciary Protection Act of 2002

Section 11008 increases the maximum prison term for forcible assaults, resistance, intimidation, or interference with a Federal judge, Federal law enforcement officer, or U.S. official from 3 years imprisonment to 8 years and increases the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge, Federal law enforcement officer, or U.S. official from 10 years imprisonment to 20 years.

This section also increases the maximum prison term for actual or attempted influencing, impeding, or retaliating against a Federal judge, Federal law enforcement officer, or U.S. official by threatening a family member of the employee, from 5 to 10 years, and from 3 to 6 years if the threat is to commit an assault.

In addition, Section 11008 increases the maximum prison term from 5 to 10 years for threats of injury or kidnapping of any person mailed to a Federal judge, Federal law enforcement officer, or U.S. official, and from 3 to 6 years for extortionate threats to a Federal judge, Federal law enforcement officer, or U.S. official.

It directs the U.S. Sentencing Commission to amend the Sentencing Guidelines to enhance penalties for assaults and threats against a Federal judge, Federal law enforcement officer, and U.S. official engaged in their official duties.

Sec. 11009. The James Guelff and Chris McCurley Body Armor Act of 2002

Section 11009 defines the terms ''body armor,'' ''law enforcement agency,'' and ''law enforcement officer.'' It directs the U.S. Sentencing Commission to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor. It also states that it is the Sense of the Senate that a minimum two-level enhancement is appropriate.

Section 11009 makes it unlawful for a person who has been convicted of a violent felony to purchase, own, or possess body armor. It provides an affirmative defense against prosecution if the felon wore armor after obtaining permission from employer, and possession of armor was necessary for safe performance of lawful business activity. Individuals who violate this prohibition are guilty of a felony subject a fine and a maximum sentence of three years.

This provision also empowers Federal law enforcement agencies to donate surplus body armor directly to local and state law enforcement departments. These agencies include the Administrator of the Drug Enforcement Administration, the Director of the FBI, the Commissioner of the Immigration and Naturalization Service, the Director of the U.S. Marshals service, the Director of the Bureau of Alcohol, Tobacco, and Firearms, the Commissioner of Customs, and the Director of the United States Secret Service. Only body armor that is not required by the Federal government is eligible for donation.

Sec. 11010. Persons authorized to serve search warrant

Section 11010 amends section 2703 of title 18 by stating that an officer's presence is not required to serve or execute a search warrant directed to a provider of electronic communication service or remote computing service for records or other information pertaining to a subscriber of that service.

Sec. 11011. Study on reentry, mental illness, and public safety

Section 11011 requires the Attorney General to conduct a study of offenders with mental illness who are released from prison or jail to determine how many such offenders qualify for Medicaid, SSI, or SSDI, how many of those who qualify are actually enrolled in those programs, and how enrollment affects whether such offenders commit further crimes, among other things.

Sec. 11012. Technical amendment to Omnibus Crime Control Act

The current version of Section 802(b) [42 U.S.C. (§3783(b)] of the Omnibus Crime Control and Safe Streets Act gives rights of notice and appeal to applicants for the Violence Against Women Act (VAWA) Grants to Encourage Arrests program (Part U) whose applications have been denied. The Grants to Encourage Arrests program is a discretionary grant program and historically, a discretionary grant applicant is not afforded a right of appeal of an application denial. This is based on the rule that formula grants create an ''entitlement,'' which gives formula grantees certain due process rights of notice and hearing in the event a formula grant application is denied. Discretionary grants, on the other hand, do not create any entitlement, and consequently discretionary grant applicants do not have such due process rights.

A second problem with the current version of Section 802(b) is that it does not give VAWA formula grant applicants these notice and appeal rights which they should have under the entitlement concept, because it does not cite to the STOP grant program in Part T, which is the VAWA formula grant program. This is illustrated by the language of Section 802(b) by which all formula grant programs under the Omnibus statute (except VAWA's STOP program) are covered by this version of Section 802(b), and no other discretionary grant program are referenced by this provision (except the incorrect reference to VAWA's Grants to Encourage Arrest program, which would be changed by this amendment). The logical conclusion is that the reference to Part U was a misdesignation, and that Congress intended to reference Part T, the STOP formula grant program, and not Part U, the discretionary Grants to Encourage Arrest program. Accordingly, this section amends section 802(b) to give the right of appeal to VAWA STOP formula applicants and would also eliminate the right of appeal for discretionary grant applicants, as Congress clearly intended.

Sec. 11013. Debt collection improvement

Section 11013 expands the use of the Department's Three Percent Debt Collection Fund. This fund was established by Section 108 of P.L. 103–121. The language of that Act permits the Department to credit three percent of all civil debt collections resulting from Department debt collection activities to the Working Capital Fund (the Three Percent Fund) and to use those deposits to the Fund only for the costs of processing and tracking civil debt collection litigation. The proposed language would expand the uses of the Three Percent Fund and establish a two tier structure for the expanded use of those funds.

The first tier permits the Department would use deposits in the fund for processing and tracking both civil and criminal debt collection. Thereafter, if there are amounts remaining in the Fund after paying the costs of processing and tracking, the funds could be used for financial systems and for debt-collection related personnel, administrative, and litigation expenses. The second tier permits the Department to use balances remaining after the costs of tracking and processing have been paid to support its financial management systems and to pay the costs of personnel, administration and other debt-collection-related litigation expenses.

Sec. 11014. SCAAP authorization

Section 10014 reauthorizes the State Criminal Alien Assistance Program (8 U.S.C. section 1231(i)(5)) through fiscal year 2004.

Sec. 11015. Use of annuity brokers in structured settlements

Section 11015 reforms the Department of Justice's practice for using annuity brokers in structured settlements in two ways. First, it directs the Attorney General to establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit the list, and any updates to such list, to all United States Attorneys. Second, this provision permits the United States Attorney (or his designee) involved in any settlement negotiations (except those negotiated exclusively through the Civil Division of the Department of Justice) to have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

Sec. 11016. INS processing fees

Section 11016 states that processing fees for I–94, I–94W, and I–68 forms are to be deposited in the Land Border Inspection Fee Account, as requested by the Bush Administration in its FY 2002 and 2003 budget submissions.

Sec. 11017. United States Parole Commission extension

Section 11017 extends the United States Parole Commission, scheduled to cease operations later this year, for an additional three years. There are numerous offenders who remain under the supervision of the Parole Commission, which is responsible for administering the supervised release of District of Columbia offenders. This section also allows current Commissioners to extend their service on the Commission, and asks the Attorney General to conduct a study on whether the Parole Commission is the appropriate entity to administer supervised release for D.C. offenders.

Sec. 11018. Waiver of foreign country residence requirement with respect to international medical graduates

Section 11018 extends until 2004 the program authorizing visas for foreign medical graduates wishing to serve in the United States, and raises the number of visas available per State from 20 to 30.

Sec. 11019. Pretrial disclosure of expert testimony relating to defendant's mental condition

Section 11019 restores two provisions of Rule 16 of the Federal Rules of Criminal Procedure that were inadvertently omitted when the Supreme Court transmitted a revision of the Rules to Congress on April 29, 2002. The omitted provisions impose reciprocal obligations on the government and defendant, requiring each to disclose their expert witnesses' testimony on the defendant's mental condition bearing on the issue of guilt. The version of the Rules transmitted by the Supreme Court take effect on December 1, 2002, unless Congress acts to modify them. This section simply ensures that the sections that were omitted are not thus deleted from the Rules.

Sec. 11020. Multiparty, Multiforum Trial Jurisdiction Act of 2002

Section 11020 would streamline the process by which multidistrict litigation governing disasters are adjudicated. This section would save litigants time and money, but would not interfere with jury verdicts or compensation rates for attorneys.

The genesis of §11020 of the conference report took place during oversight hearings conducted in the 95th Congress by the House Subcommittee on Courts, Civil Liberties and the Administration of Justice (now Courts, the Internet and Intellectual Property). These efforts were joined by those of the Carter Administration to improve judicial machinery by abolishing diversity of citizenship jurisdiction and to delineate the jurisdictional responsibilities of state and federal courts. Following Senate opposition to such expansive change, the Subcommittee narrowed its focus and began to concentrate on the problem of dispersed complex litigation arising out of a single accident resulting in multiple deaths or injuries.[2]

Legislation on this more specific issue was first introduced in both the 98th and 99th Congresses. The House of Representatives subsequently approved legislation highly similar to §11020 of the conference report in the 101st and 102nd Congresses; and the full House Committee on the Judiciary favorably reported this language in the 103rd Congress as well. Moreover, §11020 of the conference report is highly similar to that set forth in §10 of the Subcommittee substitute to H.R. 1252, the ''Judicial Reform Act,'' from the 105th Congress, which the House passed in amended form with §10 fully intact. In addition, during the 106th Congress the House of Representatives passed the precursor to §11020 of the conference report, H.R. 2112, by voice vote under suspension of the rules. Section 11020 of the conference report is now largely culled from §3 of H.R. 860, which the House passed under suspension of the rules on March 14, 2001. No hearings on H.R. 860 were held in the 107th Congress given the ample legislative history that preceded it from the 95th Congress through the 106th. The Judicial Conference and the Department of Justice have also supported these previous legislative initiatives.

The need for enactment of §11020 of the conference report was articulated by an attorney who testified on behalf of a major airline manufacturer at the June 16, 1999, hearing on H.R. 2112.[3] It is common after a serious accident to have many lawsuits filed in several states, in both state and federal courts, with many different sets of plaintiffs' lawyers and several different defendants. Despite this multiplicity of suits, the principal issue that must be resolved first in each lawsuit is virtually identical: Is one or more of the defendants liable? Indeed, in lawsuits arising out of major aviation disasters, it is common for the liability questions to be bifurcated and resolved first, in advance of any trial on individual damage issues. The waste of judicial resources—and the costs to both plaintiffs and defendants—of litigating the same liability question several times over in separate lawsuits can be extreme.

Different expert consultants and witnesses may be retained by the different plaintiffs' lawyers handling each case. The court in each lawsuit can issue its own subpoenas for records and for depositions of witnesses, potentially conflicting with the discovery scheduled in other lawsuits. Critical witnesses may be deposed for one suit and then redeposed by a different set of lawyers in a separate lawsuit. Identical questions of evidence and other points of law can arise in each of the separate suits, meaning that the parties in each case may have to brief and argue—and each court may have to resolve—the same issues that are being briefed, argued, and resolved in other cases, sometimes with results that conflict.

Current efforts to consolidate all state and federal cases related to a common disaster are incomplete because current federal statutes restrict the ways in which consolidation can occur—apparently without any intention to limit consolidation. For example, plaintiffs who reside in the same state as any one of the defendants cannot file their cases in federal court because of a lack of complete diversity of citizenship, even if all parties to the lawsuit want the case consolidated. For those cases that cannot be brought into the federal system, no legal mechanism exists by which they can be consolidated, as state courts cannot transfer cases across state lines. In sum, full consolidation cannot occur in the absence of federal legislative redress.

The changes set forth in §11020 of the conference report speak directly to these problems. The revisions should reduce litigation costs as well as the likelihood of forum-shopping in airline accident cases; and an effective one-time determination of punitive damages would eliminate multiple or inconsistent awards arising from multiforum litigation.

Sec. 11020 Multiparty, Multiforum Jurisdiction of District Courts. Section 11020 of the conference report would bestow original jurisdiction on federal district courts in civil actions involving minimal diversity jurisdiction among adverse parties based on a single accident where at least 75 persons have died. The district court in which such cases are consolidated would retain those cases for determination of liability and punitive damages.

More specifically, subsection 11020 of the conference report creates a new §1369 of Title 28 of the U.S. Code which confers original jurisdiction upon the federal district courts of any civil action involving minimal diversity between adverse parties that arise from a single accident and where at least 75 people have died in the accident if (a) a defendant resides in a state and a substantial part of the accident occurred in another state or other location (regardless of whether the defendant is also a resident of the state where a substantial part of the accident occurred); any two defendants reside in different states (regardless of whether such defendants are also residents of the same state or states); or (c) substantial parts of the accident occurred in different states.

Subsection (b) of new §1369 creates an exception to the minimum diversity rule. In brief, a U.S. district court may not hear any case in which a ''substantial majority'' of plaintiffs and the ''primary'' defendants are all citizens of the same state; and in which the claims asserted are governed ''primarily'' by the laws of that same state. In other words, only state courts may hear such cases. (This feature was one of three changes proffered to the Senate in an effort to develop greater support for H.R. 2112 in the waning days of the 106th Congress.

Subsection (c) of new §1369 sets forth certain ''special rules'' and definitions. They include the following:

(1) *Minimal Diversity*. Exists between adverse parties if any party is a citizen of a state and any adverse party is a citizen of another state, a citizen/subject of a foreign state, or a foreign state.

(2) *Corporation*. Deemed to be a citizen of any state, and a citizen or subject of any foreign state, in which it is incorporated or has

[2] Letter from Michael J. Remington, former Chief Counsel to the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives, to Representative F. James Sensenbrenner, Jr. (July 14, 1999).

[3] Letter on H.R. 2112 Before the Subcomm. on Courts and Intellectual Property of the House Comm. on the Judiciary, 106th Cong., 1st Sess. (June 16, 1999) (statement of Thomas J. McLaughlin, Esq., Perkins Coie, LLP, Attorneys for the Boeing Company at 4–9)

its principal place of business; and is deemed to be a resident of any state in which it is incorporated or licensed to do business.

(3) *Injury*. Physical harm to a person, and physical damage or destruction of tangible property, but only if physical harm exists.

(4) *Accident*. A sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 75 natural persons.

(5) *State*. Includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Subsection (d) of new §1369 permits any person with a claim arising from an accident as defined by the terms of the bill to intervene as a party plaintiff, even if that person could not have brought an action in district court as an original matter.

Pursuant to subsection (e) of new §1369, a federal district court in which an action is pending under the terms of the bill must promptly notify the Multidistrict Litigation Panel (MDLP)[4] of the pendency.

Section 11020(b) of the conference report amends the general federal venue statute[5] by permitting any action under the bill to be brought in any district court in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.

Section 11020(c) of the conference report permits a defendant in a civil action in state court to remove to the appropriate federal district court under 28 U.S.C. §1441 if:

(A) the action could have been brought under the terms of §1369, or

(B) The defendant is a party to an action which is or could have been brought pursuant to the terms of the bill in a federal district court and arises from the same accident as the state court action.

New §1441(e)(2)-(5), as created by §11020(c) of the conference report, also sets forth the procedure for removal, along with the terms by which an action is remanded back to state court for determination of damages, including appellate procedures governing liability. Any decision under §1441(e) concerning remand for the determination of damages is not reviewable by appeal or otherwise under new paragraph (6).

Finally, §11020(d) of the conference report establishes service-of-process authority (new §1697) for actions brought under its terms.

The amendments made by §11020 of the conference report shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of enactment of the Act.

Sec. 11021. Additional place of holding court in the Southern District of Ohio

This section authorizes judges in the Southern District of Ohio to hold court in St. Clairsville, Ohio.

Sec. 11022. Direct shipment of wine

This section states that during any period that the Federal Aviation Administration has in effect restrictions on airline passengers to ensure their safety, a person who purchases wine while visiting a winery can ship wine to another state provided that the purchaser could have carried or brought the wine into the state to which the wine is shipped. Further, the purchaser must be of legal age to purchase alcohol, the shipment must require an adult signature upon delivery and the wine must be for personal use only and not for resale. Within two years of the date of enactment, and at two-year intervals thereafter, the Attorney General, in conjunction with the FAA Administrator, must submit a report to the House and Senate Committees on the Judiciary on the implementation of this provision.

Sec. 11023. Webster Commission implementation report

This section implements a recommendation in the report of the Commission for Review of FBI Security Programs, dated March 31, 2002 (''Webster Commission''). Subsection (a) would require the FBI Director to submit to the appropriate Committees of Congress a plan for implementation of the Webster Commission recommendations, including the costs of such implementation. Subsection (b) would require the FBI Director to submit to the appropriate Committee annual reports on implementation of this plan for three years thereafter. Subsection (c) defines the appropriate Committees as the Senate and House Judiciary and Appropriations Committees, the Senate Select Committee on Intelligence, and the House Permanent Select Committee on Intelligence.

Sec. 11024. FBI police

This title provides statutory authorization for an already existing FBI police force that protects FBI buildings and adjacent streets. Currently, the FBI police suffers from a high rate of turnover due to lower pay and fewer benefits than the Uniformed Division of Secret Service or Capitol and Supreme Court police. This title would close this disparity.

The section defines the terms ''Director,'' ''FBI buildings and grounds,'' and ''FBI police'' as used in the title. It authorizes the FBI Director to establish the FBI police, subject to the Attorney General's supervision, to protect persons and property within FBI buildings and grounds, including adjacent streets and sidewalks within 500 feet. FBI buildings and grounds would include any building occupied by the FBI and subject to FBI supervision and control, the land on which such building is situated, and enclosed passageways connecting such buildings. FBI police would be uniformed representatives of the FBI with authority to make arrests and otherwise enforce federal and D.C. laws, carry firearms, prevent breaches of the peace, suppress unlawful affrays and unlawful assemblies, and hold the same powers as sheriffs and constables. FBI police would not have authority to serve civil process. Pay and benefits would be equivalent to pay and benefits for the Secret Service Uniformed Division. The section provides that the authority of the Washington, D.C. Metropolitan Police would not be affected by this title.

Sec. 11025. Report on FBI information management and technology

This section would require the FBI Director, with appropriate commends from other components of the Department of Justice, to submit to the Congress a report on FBI information management and technology, including whether the authority is needed to waive normal procurement regulations. The report would provide the results of pending Justice Management Council studies and Inspector General audits and submitting a 10–point plan for improving FBI information management and technology to consider (1) to what extent appropriate FBI technology management positions should be personnel with commercial sector experience, (2) how access to the most sensitive information can be audited so that suspicious activity is subject to near contemporaneous review, (3) how critical information systems can employ a public key infrastructure, (4) how security features can be tested (5) which FBI employees should receive instruction in records and information management, (6) whether a reserve should be established for research and development, (7) whether administrative requirements for less costly software purchases are necessary, (8) whether the FBI should contract with an expert technology partner, (9) whether procedures should be instituted to procure through contracts of other agencies as necessary; and (10) whether system upgrades should be tested before operational deployment.

Sec. 11026. GAO report on crime statistics reporting

This section requires the General Accounting Office to report on how crime statistics are reported and used by Federal law enforcement agencies. Specifically, the report would identify policies that allow a case to be claimed or reported by more than one law enforcement agency, the conditions that allow such reporting to occur, the number of such cases reported during a 4–year period, similar multiple claims of credit for arrests, the use of such statistics for administrative and management purposes, and relevant definitions. The report would include recommendations for how to eliminate unwarranted and duplicative reporting. Federal law enforcement agencies would be required to comply with GAO requests for information necessary to prepare the report.

Sec. 11027. Crime-free rural States grants

Section 11027 authorizes $30 million over three years for the Attorney General to make grants to State criminal justice, Byrne, or other designated agencies to develop rural States' capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

Sec. 11028. Motor vehicle franchise contract dispute resolution process

Section 11028 requires that whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to the contract, arbitration may be used to settle the controversy only if both parties consent in writing after such controversy arises. This section also requires the arbitrator to provide the parties with a written explanation of the factual and legal basis for the decision. The section provides that its provisions shall apply only to contracts entered into, modified, renewed or extended after the date of enactment.

Sec. 11029. Holding court for the Southern Sistrict of Iowa

Section 11029 states that the U.S. District Court for the Southern District of Iowa may hold court in Rock Island, Illinois, from January 1, 2003 through July 1, 2005, while the Davenport, Iowa courthouse undergoes renovation.

Sec. 11030. Posthumous citizenship restoration

Section 11030 extends the deadline for allowing families of non-citizen veterans who died while serving honorably in past wars to apply for purely honorary posthumous citizenship on the part of the deceased non-citizen veteran.

Sec. 11030A. Extension of H–1B status for aliens with lengthy adjudications

Section 11030A allows for extension of H–1B status for aliens who file a labor certification more than 365 days before the end of their sixth year, and file an immigration petition before the end of their sixth year. This provision recognizes the lengthy processing times of the Department of Labor.

[4] 28 U.S.C. §1407. The Mutidistrict Litigation Panel—a select group of seven federal judges picked by the Chief Justice—helps to consolidate lawsuits which share common questions of fact filed in more than one judicial district nationwide. Typically, these suits involve mass torts—a plane crash, for exmaple—in which the plaintiffs are from many different states. All things considered, the panel attempts to identify the one U.S. district court nationwide which is best adept at adjudicating pretrial matters. The panel then remands individual cases back to the districts where they were originally filed for trial unless they have been previously terminated.

[5] 28 U.S.C. §1391.

Sec. 11030B. Application for naturalization by alternative applicant if citizen parent has died

Section 11030B amends the Immigration and Nationality Act to authorize the submission of an application for naturalization under section 322 of such Act on behalf of a child by the child's grandparent or legal guardian, if the parent who otherwise would be authorized to submit such application is deceased.

Subtitle B—EB–5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

Sec. 11031. Removal of conditional basis of permanent resident status for certain alien entrepreneurs, spouses, and children

Section 11031(a): This subsection sets forth new procedures for certain investors to remove conditional resident status.

Section 11031(b)(1): This subsection defines the investors who qualify under this section. They must meet three conditions: (1) they filed an I–526 petition and had it approved by the INS between January 1, 1995 and August 31, 1998; (2) they obtained conditional resident status; and (3) before the date of enactment of this bill they filed an I–829 to remove their conditional resident status.

Section 11031(b)(2): This subsection allows investors whose I–829 petitions have been denied an opportunity to file a motion to reopen them, as long as they file the motion to reopen within 60 days after enactment. If the investor is outside the United States, the INS must parole the person back into the country unless they are inadmissible or deportable or they had a material misrepresentation in their petition. If an investor whose I–829 petition was denied is in removal proceedings, they too can file a motion to reopen to apply under this bill.

Section 11031(c): This subsection sets forth procedures to determine whether investors can have their conditions removed.

Section 11031(c)(1): This subsection states that the INS has 180 days after enactment to decide three things: (1) whether the I–829 petition has any material misrepresentations; (2) whether the investment created or saved 10 jobs; and (3) whether the investor has substantially complied with the investment requirement ($1 million or $500,000). The section also states that investments in regional centers or in troubled businesses count.

Section 11031(c)(1)(D): This subsection gives investors a choice of three dates by which to measure their compliance: (1) the date the I–829 petition is filed; (2) six months after the I–829 petition is filed; or (3) the date the INS makes its determination.

Section 11031(c)(1)(E): This subsection states that if the investor meets the jobs and investment requirements and has not made a material misrepresentation, the INS will remove the conditional resident status and the investor and family members become real permanent residents.

Section 11031(c)(1)(F): This subsection states that if the INS finds against the investors on any of the three grounds, the Service must notify the investor, and the investor receives a chance to rebut the adverse facts. If the investor loses on the jobs or investment requirement, the INS will continue the investor's conditional resident status for two years. During that time the investor can try to meet those requirements (see below). If the INS finds that the investor made a material misrepresentation, the INS will terminate the investor's conditional resident status. The investor can appeal to the BIA and then seek judicial review. During administrative or judicial review proceedings the investor remains in conditional resident status.

Section 11031(c)(2): This subsection provides for second determinations two years later for those investors who could not initially demonstrate the necessary number of jobs created or amount invested.

Section 11031(c)(2)(A): This subsection states that an investor can combine investments made earlier with new investments to show that altogether he or she invested the total amount required. This includes investments in limited partnerships.

Section 11031(c)(2)(C): This subsection states that the investor must file another I–829 during the 90 days preceding the two-year anniversary. Failure to file will normally terminate a conditional resident's status. There is a good cause exception.

Section 11031(c)(2)(E): This subsection states that if an investor files another I–829 petition, the INS has 90 days to decide three things: (1) whether the I–829 petition has any material misrepresentations; (2) whether the investment created or saved 10 jobs; and (3) whether the investor has substantially complied with the investment requirement ($1 million or $500,000). The investor can aggregate money invested before and jobs created or saved from the initial investment. As before, investments in regional centers or in troubled businesses count.

Section 11031(c)(2)(F): This subsection states that if the investor meets the job creation and investment requirements and has not made a material misrepresentation, the INS will remove the conditional resident status of the investor and family members, who may become real permanent residents.

Section 11031(c)(2)(G): This subsection states that if the INS finds against an investor on any of the three grounds, the Service must notify the investor, who may attempt to rebut the adverse facts. If the investor loses, the INS will terminate the investor's conditional resident status.

Section 11031(d): This subsection states that an investor whose conditional resident status is terminated can have an immigration judge review that decision.

Section 11031(e): This subsection provides that any alien who was admitted on a conditional basis by virtue of being the child of an EB–5 investor shall still be considered a child for purposes of this title.

Section 11031(f): This subsection defines ''full-time'' employment to mean a position that requires at least 35 hours a week.

Sec. 11032. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children

Section 11032 provides similar procedures for EB–5 investors whose I–526 petitions were approved, but who never became conditional residents because the INS never acted on their adjustment of status applications or because they remained overseas. The key provisions of this section are outlined below.

Section 11032(a): This subsection states that the INS must approve applications under this section within 180 days after enactment.

Section 11032(b): This subsection defines an eligible individual as an investor who filed an I–526 petition that was approved by the INS between January 1, 1995 and August 31, 1998, and who then timely filed an adjustment of status application or applied for an immigrant visa overseas. Investors are not eligible if they are inadmissible or deportable on any ground.

Section 11032(c): This subsection states that if the INS revoked the I–526 petition on the ground that the investor failed to meet the capital investment requirement, that revocation is to be disregarded for purposes of this bill. If the adjustment of status application or immigrant visa application overseas is not pending on the date of enactment, it is to be treated as reopened if (i) it is not pending because the INS claims the investor never complied with the capital investment requirement or (ii) the investor left the United States without advance parole. If an investor applied for adjustment of status in the United States but is now overseas, the INS will establish a process to let them return to the United States if necessary to obtain adjustment.

Section 11032(e): This subsection states that like investors covered by section 11031 above, investors covered by this section must file an I–829 petition within two years of becoming a conditional resident. The determinations and process are similar for both section 11031 and section 11032 investors. For example, the Attorney General shall credit the investor with funds invested and jobs created or saved both prior to and after the date of enactment. This section gives investors a choice of two dates by which to measure their compliance: (1) the date they filed their adjustment of status application; or (2) the date the INS decides the I–829 petition.

Sec. 11033. Regulations

Section 11033 requires the INS to publish implementing regulations within 120 days of enactment. Until regulations are promulgated, the INS may not deny a pending I–829 petition or adjustment of status application relating to an alien covered under the terms of sections 11031 or 11032, or commence or continue removal proceedings against affected EB–5 investors.

Sec. 11034. Definitions

Section 11034 states that the terms used in this title shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act (''INA''), unless otherwise provided.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

Sec. 11035. Definition of ''Full-Time Employment''

Section 11035 defines full-time employment for purposes of section 203(b)(5) of the INA as a position that requiring at least 35 hours a week.

Sec. 11036. Eliminating enterprise establishment requirement for alien entrepreneurs

Section 11036 amends section 203(b)(5) of the INA to eliminate the ''establishment'' requirement for EB–5 investors. Instead of showing that they have ''established'' a commercial enterprise, Investors need only that they have ''invested'' in a commercial enterprise. This section also amends section 216A of the INA to eliminate the ''establishment'' requirement for EB–5 investors who have filed I–829 petitions. Instead of showing that they have ''established'' a commercial enterprise, they need only show that they have ''invested'' in a commercial enterprise. They also must show that they have ''sustained'' their investment actions over the two-year period. This section also clarifies that a ''commercial enterprise'' may include a limited partnership. The changes made by this section apply to I–526 and I–829 petitions pending on or after the date of enactment.

Sec. 11037. Amendments to pilot immigration program for regional centers to promote economic growth

Section 11037 amends section 610(a) of the 1993 Commerce, State, Justice appropriations act to clarify that an EB–5 regional center can promote increased export sales, improved regional productivity, job creation, or increased domestic capital investment. This accords with a 2000 amendment that became law, amending section 610(c) of the 1993 Act in a similar way. Section 11037 also clarifies that the INS should approve applications for EB–5 regional center status as long as they are based on a general prediction concerning the kinds of commercial enterprises

that will receive capital from investors, the jobs that will be created directly or indirectly as a result of the investment of capital, and the positive economic impacts that will result from the investment of capital.

Subtitle C—Judicial Improvements Act of 2002

Sec. 11041. Short title

Section 11041 states that this subtitle may be cited as the ''Judicial Improvements Act of 2002.''

Sec. 11042. Judicial discipline procedures

Section 11042 amends Part I of Title 28 to add a new ''Chapter 16: Complaints Against Judges and Judicial Discipline,'' which consists of:

QUOTED SECTION 351: COMPLAINTS; JUDGE DEFINED

Allows any person who alleges that a circuit, district, bankruptcy, or magistrate judge has engaged in improper conduct, or that a judge is unable to perform his duties due to mental or physical disability, to file a written complaint with the clerk of the court of appeals for that judge's circuit. The clerk will present the complaint to the chief judge of the circuit, and to the judge who is the subject of the complaint. If the chief judge is the subject of the complaint, the second-most senior judge will receive the complaint. (The chief judge may also independently identify a complaint without receiving it in writing.)

QUOTED SECTION 352: REVIEW OF COMPLAINT BY CHIEF JUDGE

The chief judge shall expeditiously review any complaint, and can conduct a limited factual inquiry. The chief judge may request that the judge whose conduct is at issue submit a written response, which would not be shared with the complainant without that judge's consent. The chief judge or his or her designee may also communicate with the complainant, the judge, and any other person with knowledge of the matter. The chief judge shall not make findings of fact about any matter reasonably in dispute. The chief judge may issue a written order dismissing the complaint when: (a) it does not follow the rules set out in this statute, (b) when it is directly related to a judicial decision or ruling, (c) when it is frivolous or its allegations are incapable of being established through an investigation, or (d) when the judge's limited inquiry demonstrates that the allegations are false or lack factual foundation. The chief judge may also conclude the proceeding if corrective action has been taken or intervening events have mooted the complaint.

The chief judge shall distribute any written order to the complainant and the subject of the complaint.

A party aggrieved by the decision of the chief judge may petition the circuit's judicial council for review—denial of such petition is not judicially reviewable. If the judicial council accepts the petition, it can refer it for review to a panel of no fewer than five members of the council, including at least two district court judges.

QUOTED SECTION 353: SPECIAL COMMITTEES

If the chief judge does not issue an order dismissing the complaint, he or she shall promptly appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the allegations, providing written notice of such action to the complainant and the subject. The committee shall conduct an investigation as extensive as it feels necessary, and expeditiously file a comprehensive written report with the judicial council of the circuit. The report shall include both the findings of the investigation and recommendations for appropriate action by the judicial council.

QUOTED SECTION 354: ACTION BY JUDICIAL COUNCIL

Upon receipt of a report from the special committee, the judicial council may: (1) conduct any additional investigation it considers necessary, (2) dismiss the complaint, and (3) if the complaint is not dismissed, take any appropriate action to assure the effective and expeditious administration of the courts. (The council may also refer the complaint to the Judicial Conference of the United States for its recommendation.) Such action may include a temporary ban on cases being assigned to the judge who was the subject of the complaint, and a private and/or public censure or reprimand of the judge.

For Article III judges, the council may certify the judge's disability and request that the judge voluntarily retire. But the council may not order removal from office. If the council determines that an Article III judge has acted in a way that might constitute grounds of impeachment, it should promptly certify such determination to the Judicial Conference.

For magistrate judges, the council may direct the chief judge of the district of the magistrate judge to take such action as the council considers appropriate. Any removal of a magistrate or bankruptcy judge shall be in accordance with existing law.

QUOTED SECTION 355: ACTION BY JUDICIAL CONFERENCE

Upon referral from a judicial council, the Judicial Conference shall by majority vote take such action as it considers appropriate, from the sanctions available under section 354. If the Judicial Conference believes that consideration of impeachment may be warranted, it shall send that determination to the House of Representatives. Upon receipt, the Clerk of the House of Representatives shall make the Judicial Conference's determination available to the public. If a judge has been convicted of a State or Federal felony, and exhausted or waived all direct appeals, the Judicial Conference may by majority vote send a determination that consideration of impeachment may be warranted to the House of Representatives, together with appropriate court records. No referral from a judicial council is needed for the Conference to take that step.

QUOTED SECTION 356: SUBPOENA POWER

Provides subpoena powers to judicial councils, special committees, the Judicial Conference, or a standing committee appointed by the Chief Justice for purposes of an investigation under this chapter.

QUOTED SECTION 357: REVIEW OF ORDERS AND ACTIONS

A complainant or judge aggrieved by an action of a judicial council under section 354 can petition the Judicial Conference for review.

QUOTED SECTION 358: RULES

Each judicial council and the Judicial Conference may create such rules as it deems appropriate for proceedings under this chapter. Such rules must include (a) adequate prior written notice to a judge who has been the subject of a complaint; (b) the right of an accused judge to appear before the investigating panel, call witnesses, and present evidence and argument; and (c) the complainant being given the opportunity to appear for proceedings if the panel believes he or she could provide substantial information. Rules must be made public and are subject to modification by the Judicial Conference.

QUOTED SECTION 359: RESTRICTIONS

No judge whose conduct is the subject of investigation can serve upon an investigatory panel, a judicial council, or the Judicial Conference until proceedings under this chapter are terminated. No person has the right to intervene or appear as an amicus in any proceeding before a judicial council or the Judicial Conference under this chapter.

QUOTED SECTION 360: DISCLOSURE OF INFORMATION

Except for referrals to the House of Representatives, all matters related to investigations under this chapter shall be confidential and not disclosed by any person in any proceeding, with certain exceptions.

QUOTED SECTION 361: REIMBURSEMENT OF EXPENSES

When a complaint is dismissed, the judge who was its subject may be reimbursed for reasonable expenses, including attorneys' fees, incurred during the investigation.

QUOTED SECTION 362: OTHER PROVISIONS AND RULES NOT AFFECTED

Nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil or Criminal Procedure, Appellate Procedure, or Evidence.

QUOTED SECTION 363: COURT OF FEDERAL CLAIMS, COURT OF INTERNATIONAL TRADE, COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Each named court shall establish rules consistent with this chapter to evaluate complaints against its judges, and shall have the powers granted by this chapter to a judicial council.

QUOTED SECTION 364: EFFECT OF FELONY CONVICTION

Any judge who has been convicted of a State or Federal felony and has exhausted all available means for direct review of that conviction shall not accrue credit toward retirement benefits or hear or decide cases unless the judicial council of the circuit determines otherwise.

Sec. 11043. Technical amendments

Section 11043 makes technical amendments necessitated by the bill.

Sec. 11044. Severability

Section 11044 states that if any part of this subtitle is found unconstitutional, the remainder of the Act will not be affected.

Subtitle D—Antitrust Modernization Commission Act of 2002

Sec. 11051. Short title

Section 11051 states that this subtitle may be cited as the ''Antitrust Modernization Commission Act of 2002.''

Sec. 11052. Establishment

Section 11052 establishes the Commission.

Sec. 11053. Duties of the Commission

Section 11053 states that the Commission's duties are to examine whether the antitrust laws are in need of modernization, to solicit the views of all concerned parties, to evaluate proposals, and to prepare and submit a report to Congress and the President.

Sec. 11054. Membership

Section 11054 states the Commission will have 12 members, with four appointed by the President, two each by the majority and minority leaders of the Senate, and two each by the Speaker and minority leader of the House. The President's nominees will include two members of the opposing party, to be chosen by that party's Congressional leaders. The President will choose the chair of the Commission, while the Congressional leaders from the other party will choose the vice chair.

Sec. 11055. Compensation of the Commission

Section 11055 states that government employees will not be compensated for their service on the Commission, while nongovernment employees will receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule.

Sec. 11056. Staff of Commission; experts and consultants

Section 11056 states that the chairperson of the Commission may appoint and terminate an executive director and other necessary staff, and use experts and consultants.

Sec. 11057. Powers of the Commission

Section 11057 states that the Commission may hold such hearings and take such testimony as it considers appropriate, may take testimony under oath, and obtain information directly from any executive agency or court.

Sec. 11058. Report

Section 11058 states that the Commission shall submit a detailed report to Congress and the President within three years after its first meeting, including recommendations for legislative and administrative action the Commission considers appropriate.

Sec. 11059. Termination of Commission

Section 11059 states that the Commission shall cease to exist 30 days after it submits its report.

Sec. 11060. Authorization of appropriations

Section 11060 authorizes $4 million to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Sec. 12101. Short title

This section provides that the short title of this subtitle may be cited as the ''Consequences for Juvenile Offenders Act of 2002.''

Sec. 12102. Juvenile offender accountability

Section 12101 establishes a juvenile offender accountability block grant program for states, authorized at $350,000,000 per year through FY2005.

QUOTED SECTION 1801: PROGRAM AUTHORIZED

Authorizes the Attorney General to provide grants to States, and in certain cases directly to eligible units of local government, for use by States and localities for the purpose of strengthening their juvenile justice systems. Subsection (b) provides an illustrative list of acceptable expenditures for the grant money. Generally, funded programs are aimed at ensuring that juveniles receive appropriate sanctions and face consequences for their wrongdoing.

QUOTED SECTION 1802: GRANT ELIGIBILITY

This section establishes the eligibility criteria for States and localities to receive funding under the grant program. Section 1802(a) provides that States applying for grant funds must provide the Attorney General with information about the proposed activities the State and its localities will carry out with the grant and the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part. The applicant must provide the Attorney General with assurances that the State and any localities within the State that qualify for funding have in effect, or will have in effect within one year of submitting its application, policies and programs that provide for a system of graduated sanctions as defined in Section 1802(c).

Section 1802(b) establishes the eligibility criteria for localities, both within States which qualify for funding, and within States that do not qualify or apply for funds, to receive grant funds under the section. Section 1802(b)(1)(A) requires that the localities must provide information about the activities the localities propose to carry out with the subgrant and the criteria by which the locality proposes to assess the effectiveness of such activities. Section 1802(b)(1)(B) requires that localities must provide assurances that a system of graduated sanctions is or will be in effect within one year of applying for the funds.

Section 1802(c) describes the four requirements that a system of graduated sanctions must meet for an applicant to qualify for the grant funds: (1) the sanctions must be imposed on a juvenile offender for each delinquent offense; (2) the sanctions escalate in intensity with each subsequent, more serious delinquent offense; (3) the system have sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and (4) the system should accord appropriate consideration to public safety and victims of crime.

Section 1802(d) provides that a State or locality may qualify for the grant funds even if its system of graduated sanctions is discretionary. A State or locality does not have to require all of its juvenile courts to impose graduated sanctions or to impose them in every case. In States and localities where the imposition of graduated sanctions is discretionary, the juvenile courts that do not impose graduated sanctions must report at least annually to the applicable State or locality why graduated sanctions were not imposed in all such cases.

Section 1802(e) defines the terms ''discretionary'' and ''sanctions.'' The term discretionary means that each and every juvenile court in a State or locality does not have to impose a system of graduated sanctions. The term sanctions means tangible, proportional consequences that hold juvenile offenders accountable for the offense committed. A sanction may include, but is not limited to, counseling, restitution, community service, a fine, supervised probation, or confinement.

QUOTED SECTION 1803: ALLOCATION AND DISTRIBUTION OF FUNDS

Section 1803(a) provides that each State is to receive 0.50 percent of the total grant funds. The term ''State'' is defined in Section 1809. The remaining funds are then to be distributed among the States based on the size of each State's juvenile population.

Section 1803(b)(1) requires that a participating State must distribute to its participating localities 75 percent of the total grant funds the State receives. This ''pass-through'' provision is aimed at ensuring that localities receive most of the funding when they bear most of the juvenile justice expenditures.

Section 1803(b)(2) provides for a waiver of the pass-through provision when the State is responsible for more than 25 percent of the total juvenile justice expenditures in the State. The State may seek a waiver of the pass-through requirement from the Attorney General so that it may keep a share of the grant funds equal to its share of the total expenditures in that State.

Section 1803(b)(3) provides an allocation formula to distribute the grant funding among the localities within a State. The allocation formula is intended to provide maximum resources to the localities that bear the largest burden in administering the juvenile justice system in the participating State. Under the formula, each State determines the amount that each of its localities receives, based on a combination of juvenile justice expenditures and the level of violent crime in each locality.

Section 1803(b)(4) provides that a local government shall not receive a subgrant of more than 100 percent of its juvenile justice expenditures.

Section 1803(c) requires the State to investigate the methodology used by a locality to determine the accuracy of the locality's submitted data, if the State has reason to believe such information is insufficient or inaccurate.

Section 1803(d) provides that States shall expend money on services to localities whose allotments are less than $10,000.

Section 1803(e) provides that the Attorney General will reserve not more than 75 percent of the allocation that a non-qualifying State would have received under section 1803(a) if it had qualified. This reserve will be used to provide grants to localities that meet the requirements for funding under section 1802 even though they are in the non-qualifying States.

QUOTED SECTION 1804: GUIDELINES

Section 1804(a) requires the Attorney General to issue guidelines establishing procedures under which a State or locality that receives funds is required to provide notice regarding the proposed use of funds made available under this part.

Section 1804(b) requires an eligible State or locality to establish an advisory board to review the proposed uses of such funds. The members of the board must include representatives of: State and local police departments, prosecutors' offices, juvenile courts, probation offices, educational agencies, and social service agencies; the local sheriff's departments; nonprofit, nongovernmental victim advocacy organizations; and nonprofit, religious or community groups.

QUOTED SECTION 1805: PAYMENT REQUIREMENTS

This section establishes various provisions regarding payment of funds to eligible States and localities and repayment of unexpended funds to the Attorney General. Grant recipients may use no more than 5 percent of any grant funds received for administrative costs.

QUOTED SECTION 1806: UTILIZATION OF THE PRIVATE SECTOR

This section provides that States or localities may use the funds to contract with private, nonprofit entities or community-based organizations to carry out the purposes of section 1801.

QUOTED SECTION 1807: ADMINISTRATIVE PROVISIONS

This section establishes administrative provisions for recipient State or localities that receive funds directly from the Attorney General. The recipient of the funds must establish a trust fund and deposit all payments received under this grant program into that trust.

QUOTED SECTION 1808: ASSESSMENT REPORTS

This section requires that a State or locality that receives the grant or subgrant funding must provide a report to the Attorney General summarizing the activities carried out with the funds and assessing the effectiveness of those activities. This section also includes a waiver provision for activities that are not practical to assess.

QUOTED SECTION 1809: DEFINITIONS

This section provides definitions of key terms used in the legislation.

QUOTED SECTION 1810: AUTHORIZATION OF APPROPRIATIONS

This section authorizes $350 million a year for through fiscal year 2005 to fund the programs under this title.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Section 12201. Short title

Section 12201 states that this subtitle may be cited as the ''Juvenile Justice and Delinquency Prevention Act of 2002.''

Section 12202. Findings

Section 12202 states the findings of Congress on the seriousness of juvenile crime and the need to address the problem through both prevention and accountability programs.

Section 12203. Purpose

Section 12203 states that the purpose of this subtitle is to assist State and local governments in preventing acts of juvenile delinquency and holding offenders accountable.

Section 12204. Definitions

Section 12204 modifies and adds to the definitions under the Juvenile Justice and Delinquency Act. It defines ''graduated sanctions,'' ''contact,'' ''adult inmate,'' ''violent crime,'' ''collocated facilities,'' and ''related complex of buildings.'' The definition for ''contact'' adopts current Federal regulations, as found in section 31.303 of Title 28 of the Code of Federal Regulations.

Section 12205. Concentration of Federal effort

Section 12205 modifies the duties of the Administrator of the Office of Juvenile Justice and Delinquency Prevention by, among other things, requiring him to issue model standards for providing mental health care to incarcerated juveniles within one year of enactment.

Section 12206. Coordinating Council on Juvenile Justice and Delinquency Prevention

Section 12206 makes a technical correction to the JJDPA, making it comply with the current title of the House Education and Workforce Committee.

Section 12207. Annual report

Section 12207 amends section 207 of the JJDPA to require an annual evaluation of the effectiveness of programs funded under this title.

Section 12208. Allocation

Section 12208 amends section 222 of the JJDPA to make technical changes to clarify the process by which States and territories receive funding under the Act.

Section 12209. State plans

Section 12209 amends section 223 of the JJDPA to amend or eliminate specific state plan requirements and modify the list of activities eligible for funding under the formula grant program.

Section 12210. Juvenile Delinquency Prevention Block Grant Program

Section 12210 amends Title II of the JJDPA by repealing Part C (National Programs), Part D (Gangs), Part E (State Challenge Activities), Part F (Treatment of Juvenile Offenders Who Are Victims of Child Abuse or Neglect), Part G (Mentoring), Part H (Boot Camps), and the first sub-part of Part I (White House Conference on Juvenile Justice). In their place, the section creates a new Part C that establishes the Juvenile Delinquency Prevention Block Grant and sets forth the allocation of funds, state plan requirements and criteria and eligibility for grants for local projects.

Section 12211. Research; evaluation; technical assistance; training

Section 12211 amends Title II of the JJDPA by creating a new Part D that authorizes research, training, technical assistance and information dissemination regarding juvenile justice matters through the Office of Juvenile Justice and Delinquency Prevention.

Section 12212. Demonstration projects

Section 12212 amends Title II of the JJDPA by creating a new Part E that permits the administrator to award grants for developing, testing, and demonstrating new initiatives and programs for the prevention, control or reduction of juvenile delinquency.

Section 12213. Authorization of appropriations

Section 12213 authorizes such sums as may be appropriate to carry out Title II of this act.

Section 12214. Administrative authority

Section 12214 amends Section 299A of the JJDPA to modify the administrator's authority to establish rules, regulations, and procedures.

Section 12215. Use of funds

Section 12215 amends Section 299C of the JJDPA to state, among other things, that no funds shall be paid to a residential program unless the State in which it is located has minimum licensing standards.

Section 12216. Limitations on use of funds

Section 12216 amends Title II, Part F of the JJDPA by adding a requirement that funds not be used to support the unsecured release of juveniles charged with a violent crime.

Section 12217. Rules of construction

Section 12217 amends Title II, Part F of the JJDPA by adding a new section to clarify that nothing in Titles I or II (a) prevents otherwise eligible organizations from receiving grants, or (b) should be construed to modify or affect existing federal or state laws related to collective bargaining rights of employees.

Section 12218. Leasing surplus Federal property

Section 12218 amends Title II, Part F of the JJDPA to permit the administrator to receive surplus Federal property and lease it to eligible entities for use in juvenile facilities or for delinquency prevention and treatment activities.

Section 12219. Issuance of rules

Section 12219 amends Title II, Part F of the JJDPA to allow the administrator to issue rules to carry out the title.

Section 12220. Content of materials

Section 12220 amends Title II, Part F of the JJDPA to add a new section requiring that materials funded by this act for the purpose of hate crimes prevention shall not abridge or infringe upon the constitutionally protected rights of free speech, religion, and equal protection of juveniles or their parents or legal guardians.

Section 12221. Technical and conforming amendments

Section 12221 sets forth technical and conforming amendments.

Section 12222. Incentive grants for local delinquency prevention programs

Section 12222 reauthorizes Title V of the JJDPA, which provides for grants for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, with minor amendments.

Section 12223. Effective date; application of amendments

Section 12223 sets forth the effective date of the act and states that amendments made by the act shall apply to fiscal years beginning after September 30, 2002.

Subtitle C—Amendments to 18 U.S.C. 5037

Section 12301. Amendments to 18 U.S.C. 5037

Section 12301 amends 18 U.S.C. §5037 to modify current federal law regarding the sentencing of juvenile delinquents. Specifically, it (1) provides authority to impose a term of juvenile delinquency supervision to follow a term of official detention, (2) provides authority to sanction a violation of probation when a person adjudicated a juvenile delinquent is over 21 at the time of the violation, and (3) makes technical corrections in response to the Supreme Court's decision in *United States* v. *R.L.C.*

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Sec. 13101. Short Title

Section 13101 states that the short title of this subtitle is the ''Patent and Trademark Authorization Act of 2002.''

Sec. 13102. Authorization of amounts available to the Patent and Trademark Office

Section 13102 would authorize the PTO to receive appropriations for fiscal years 2003 through 2008 in amounts equal to those fees collected by the agency in each such fiscal year. The Director of the PTO must submit estimates of the fees for the next fiscal year to the Committees on Appropriations and Judiciary of the Senate and the Committees on Appropriations and Judiciary of the House of Representatives no later than February 15 each fiscal year. If enacted, however, this full-funding authorization would still be subject to appropriations.

Sec. 13103. Electronic filing and processing of patent and trademark applications

Section 13103 requires the Director to develop a user-friendly electronic system for the filing and processing patent and trademark applications. This electronic system must also allow examiners and applicants to send all communications electronically, and should allow the PTO to process, maintain, and search electronically the contents and history of each application. The system must be completed within 3 years of the date of enactment of this legislation. This section authorizes not more than $50,000,000 for each of fiscal years 2003, 2004 and 2005 to carry out this section. These amounts will remain available until expended.

Sec. 13104. Strategic Plan

Section 13104 requires the Secretary of Commerce to submit annual updates on the implementation of the ''21st Century Strategic Plan'', which was issued on June 3, 2002, and any amendments to that plan. These annual reports should be submitted to Committees on the Judiciary of the Senate and House of Representatives in the five calendar years following the date of enactment of this act.

Sec. 13105. Determination of substantial new question of patentability in reexamination proceedings

Section 13105 modifies the sections of Title 35 of the U.S. Code that instruct the Director to determine whether substantial new questions of patentability are raised by requests for prior art citations to the Office, *ex parte* reexaminations of patents, or *inter partes* reexaminations of patents. In each of these cases, language is added to the Title to clarify that the existence of a substantial new question of patentability is not necessarily precluded by the fact that a patent or printed publication has been previously cited by the Office or considered by the Office. This section states that these amendments to the U.S. Code will be effective for any determinations made by the Director on or after the enactment of this bill.

Sec. 13106. Appeals in inter partes reexamination proceedings

Section 13106 amends 35 U.S.C. Sec. 315 by adding the Court of Appeals for the Federal Circuit as a venue where a third party requester may appeal, or be a party to an appeal of, a final decision on patentability.

This section strikes the section in the Code that states that the third-party requester may not appeal the decision of the Board of Patent Appeals and Interferences. It explicitly adds third-party requesters to those who may request an appeal or participate in an appeal of a decision by the Board of Patent Appeals and Interferences. It also states that all of the amendments found in this section apply to any reexamination begun on or after the date of enactment of this bill.

Subtitle—B Intellectual Property and High Technology Technical Amendments

Sec. 13201. Short title

Section 13201 may be cited as the ''Intellectual Property and High Technology Technical Amendments Act of 2002.''

Sec. 13202. Clarification of Reexamination Procedure Act of 1999; technical amendments

Reexamination is an administrative proceeding in which a patent may be reviewed in light of new evidence affecting its patentability (''prior art'').[6] Traditionally, reexamination operated only between the patent owner and the PTO (*ex parte*). As part of the AIPA, a new *inter partes* reexamination procedure was established to allow a third party also to challenge the validity of a patent or its claims through the introduction of new evidence. While this *inter partes* procedure is considered beneficial because it provides cost savings over court litigation, some critics were concerned it would be abused. As a result, reexamination through the *inter partes* mechanism was designed with certain limitations (e.g., estoppel provisions) which do not apply in *ex parte* reexamination under the Patent Act.

Section 13202 of the bill merely clarifies the Patent Act's *inter partes* reexamination section by stipulating that it will apply to the proper parties and operate as envisioned. For example, the term ''third-party requester'' is inserted in lieu of ''persons,'' since only a third party may invoke this *inter partes* reexamination. This is logical because a patent owner has more rights under *ex parte* reexamination and would not choose to use the *inter partes* procedures even if available.

The bill, under paragraph (c), specifies that the effective date of these reexamination procedures shall apply to any reexamination on or after the date of the act's enactment.

Sec. 13203. Patent and Trademark Efficiency Act amendments

The AIPA contained a title (the ''Patent and Trademark Efficiency Act'') to modernize the PTO by transforming it into a more autonomous and efficient agency. The first section of the bill clarifies the status and authority of the Deputy Director of the PTO under this reorganization. The amendments made by the succeeding two paragraphs also conform the membership of the Trademark Trial and Appeal Board and the Board of Patent Appeals and Interferences to include the Deputy Director, as under current statute.

Section 13203 amends section 5, chapter 1, of title 35. The employees of the PTO are currently prohibited from having an ownership interest in patents.[7] Members of the newly-established Public Advisory Committee are currently considered employees of the Office. Currently, those individuals who possess the most thorough understanding of the patent system (for example, independent inventors) are prohibited from participating on the Public Advisory Committee. This subsection eases this restriction on those serving on the Public Advisory Committee in light of the goals of the AIPA.

This section eliminates the need for a signature to be attested on a patent grant. This amendment removes one step of the agency's bureaucracy and allows the PTO to issue patents more expeditiously.

Sec. 13204. Domestic publication of Foreign Filed Patent Applications Act of 1999 amendments

The AIPA established the early publication of patent applications in the U.S. patent system for the first time along with certain conditions and new rights for inventors. One such right is a corresponding provisional right (e.g., a reasonable royalty) in patent infringement cases. These provisions will take effect 1 year after the AIPA's date of enactment. Section 13204 is technical in nature and clarifies the text regarding the statutory requirement for the effective date of international applications which may qualify for the provisional rights based on early publication.

Sec. 13205. Domestic Publication of Patent Applications Published Abroad

The AIPA established the early publication of patent applications, as described above. One consequence of early publication is its effect on the standard of novelty for a patent application. Section 13205 and the following paragraphs establish certain safeguards regarding the interplay of the early publication of patent applications and the review of novelty during the patent examination process. It is an especially important safeguard in light of the fact that the U.S. is a signatory of the Patent Cooperation Treaty, an international convention allowing for the multi-national application of patents in several languages.

Subsection 1 contains a safeguard that the PTO will only rely on information published in English in patent applications as it makes the essential determination of novelty during the examination of a patent application. This limits the evidence from foreign applications that may be considered ''prior art'' and could affect patentability. This is an important safeguard for independent inventors and small American businesses that do not have access to expensive translation services and the foreign patent offices.

The effective date language relating to section 102(e) generally provides that all patents, whenever granted, and all pending applications for patents, whenever filed, will be subject to prior art as defined by section 102(e) of title 35 effective as of November 29, 2000. However, patents resulting from an international application filed before November 29, 2000 and applications published under section 122(b) of title 35 or Article 21(2) of the treaty defined in section 351(a) of title 35 resulting from an international application filed before November 29, 2000 will not be effective as prior art references as of the filing date of the international application. This exception includes patents and published applications derived directly or indirectly from international applications filed before November 29, 2000, including international applications that claim benefit to an earlier application for patent in the United States. Thus, for example, if an application for patent, filed before, on, or after November 29, 2000, claims the benefit to an international application filed before November 29, 2000, and the international application, in turn, claims the benefit to earlier filed United States application for patent, neither the filing date of the international application nor the filing date of the earlier-filed application for patent in the United States will be considered in determining when the resulting published application or patent is effective as a prior art reference under section 102(e) of title 35 effective on November 29, 2000. However, under section 102(e) of title 35 as amended by the AIPA, for patents and published applications derived indirectly from an international application filed before November 29, 2000 through a bypass continuation application (an application for patent filed under section 111 of title 35 that claims the benefit of the filing date of an earlier international application that did not enter the national stage under section 371 of title 35), such patents and published applications are effective as prior art references as of the filing date of the bypass continuation application.

This section also clarifies that a patent or pending application for patent will be subject to prior art patents resulting from international applications filed before November 29, 2000 based on the provisions of section 102(e) of title 35 in effect before November 29, 2000. Thus, such patents may be prior art references as of the date of compliance with the requirements of section 371 (c) (1), (2), and (4) of title 35 and not the filing date of the international application, unless the date of compliance with the requirements of section 371(c)(1), (2), and (4) of title 35 coincides with the filing date of the international application.

Sec. 13206. Miscellaneous clerical amendments

Section 13206 contains a series of highly technical clerical amendments developed by the Office of Legislative Counsel upon its own initiative. These changes to the Patent Act are self-evident, and range from aligning paragraphs, deleting quotation marks, correcting the fonts of headings, and the like.

Sec. 13207. Technical corrections in trademark law

In Section 13207, the first paragraph clarifies the statutory text of the Trademark Act as it relates to damages. In 1999, the ''Anti-Cybersquatting Consumer Protection Act''[8] established certain damages for willful violation of §43(c) of the Trademark Act.[9] The present language entitles a plaintiff to damages, but it reads awkwardly. This bill makes a technical correction to the text and thereby removes the redundant text, without altering the substance of available trademark infringement remedies.

The second paragraph provides for additional technical amendments, including four strictly clerical changes, such as the deletion of a comma and the realignment of a paragraph. The bill also makes additional changes to the Trademark Act regarding the designation of persons involved with the filing procedures for receiving notice and process correspondence relating to the trademark registration.

Sec. 13208. Patent and trademark fee clerical amendment

Section 13208 corrects a clerical error pertaining to the section of the law cited relating to the adjustment of trademark fees and the consumer price index. The change to the cited reference does not make a substantive change in trademark law.

Sec. 13209. Copyright related corrections to 1999 Omnibus Reform Act

Section 13209 makes amendments to Title I of IPCORA.

Paragraph (1)(A) amends section 1007(2) by striking ''paragraph (2)'' and inserting ''paragraph (2)(A)''.

Paragraph (1)(B) amends section 1007(3) by striking ''1005(e)'' and inserting ''1005(d)''. In section 1007(3), the amendment instructions require paragraph 12 to be added to subsection 119(a) ''as amended by section 1005(e)''. The reference to section 1005(e) is wrong. Section 1005(d) amended subsection 119(a), whereas section 1005(e) amended subsection 119(d). Section 1005(d) amended subsection 119(a) by adding paragraph 11. Section 1005(e) amended subsection 119(d) by rewriting its paragraph 11. This amendment corrects this.

Paragraph (2) amends section 1006(b) by striking ''119(b)(1)(B)(iii)'' and inserting ''119(b)(1)(B)(ii)''. Section 1006(b) amended section 119(b)(1)(B)(iii) by inserting ''or the Public Broadcasting Service satellite feed'' after ''network station''. Section 119(b)(1)(B)(ii), not (iii), should have been amended. Section 119(b)(1)(B)(iii) contains no reference to ''network station''. Section 119(b)(1)(B)(ii) does contain that reference, and it is clear that section 1006(b) was intended to amend section 119(b)(1)(B)(ii).

[6] 35 U.S.C. §301 et seq.

[7] 35 U.S.C. §4.

[8] H.R. 3194, P.L. 106–113 (Nov. 29, 1999)

[9] 15 U.S.C. §1125(c)

Paragraphs (3)(A) and (3)(B) amend section 1006(a)(2) by repealing it, redesignating the paragraphs and changing the language in section 1011(b). The amendment in section 1006(b)(2) amends section 119(a)(1) by inserting new wording so that the text will read as follows, with the new wording italicized: ''primary transmission made by a superstation or by the Public Broadcasting Service satellite feed and embodying a performance or display of a work''.

The amendment in section 1011(b)(2)(A) subsequently amends the same language but does not take the first amendment into account. It directs that section 119(a)(1) be amended to delete ''primary transmission made by a superstation and embodying a performance or display of a work'' (ignoring the fact that ''or by the Public Broadcasting Service satellite feed'' has been inserted into the middle of that phrase). In lieu of that phrase, it inserts ''performance or display of a work embodied in a primary transmission made by a superstation'' (but without taking into account the addition of ''or by the Public Broadcasting Service satellite feed''). As a result, it is unclear what is to be done with the phrase ''or by the Public Broadcasting Service satellite feed''. Although the intent is clear, the language of sections 1006(a)(2) and 1011(b)(2)(A) does not necessarily accomplish the intended result. These paragraphs clarify the ambiguity and achieve the intended result.

Sec. 13210. Amendments to title 17, United States Code

Section 13210 makes amendments to title 17, United States Code.

Paragraph (1) amends section 119(a)(6) by striking ''of performance'' and inserting ''of a performance''. Section 1011(b)(2) of IPCORA amended section 119(a)(6) so that ''performance or display of a work embodied in'' is inserted after ''by a satellite carrier of''. The word ''a'' is missing between these two phrases. This section inserts it before ''performance'' so that the language will read ''by a satellite carrier of a performance or display of a work embodied in''.

Paragraph (2)(A) amends the section heading for section 122 by striking ''rights; secondary'' and inserting ''rights: Secondary''. Section 1002(a) of IPCORA added section 122 to title 17. The title of section 122 has editorial errors. To make it consistent with the style used throughout title 17, the title is changed to substitute a colon in lieu of the semicolon and ''secondary'' is capitalized. Paragraph (2)(B) amends the item relating to section 122 in the table of contents for chapter 1 to make it consistent with the change made by paragraph (2)(A).

Paragraph (3)(A) amends the section heading for section 121 by striking ''reproduction'' and inserting ''Reproduction''. Paragraph 3(B) amends the item relating to section 121 in the table of contents for chapter 1 by striking ''reproduction'' and inserting ''Reproduction''. This makes the heading for section 121 and the table of contents for chapter 1 conform to the editorial style used for the rest of the headings for title 17 by capitalizing ''reproduction''.

Paragraphs (4)(A), (4)(B), and (4)(C) amend cross references to the limitations on exclusive rights in copyright to include section 122. Throughout title 17, such references to ''121'' are changed to ''122''. Paragraph 4(A) amends section 106 by striking ''107 through 121'' and inserting ''107 through 122''. Paragraph (4)(B) amends section 501(a) by striking ''106 through 121'' and inserting ''106 through 122''. Paragraph (4)(C) amends section 511(a) by striking ''106 through 121'' and inserting ''106 through 122''.

Paragraph (5)(A) amends section 101 by moving the definition of ''computer program'' so that it appears after the definition of ''compilation''. Paragraph (5)(B) amends section 101 by moving the definition of ''registration'' so that it appears after the definition of ''publicly''. This amendment ensures that the definitions appear in alphabetical order.

Paragraph (6) amends section 110(4)(B) in the matter preceding clause (i) by striking ''conditions;'' and inserting ''conditions:''. A colon is the proper punctuation when a phrase that introduces multiple subparts is worded to include ''the following''.

Paragraph (7) amends section 118(b)(1) in the second sentence by striking ''to it''. This section was amended by the Copyright Royalty Tribunal Reform Act of 1993 to substitute ''Librarian of Congress'' for references to the ''Copyright Royalty Tribunal'' (CRT). As originally enacted by the Copyright Act of 1976, the second sentence in subsection(b) used the pronoun ''it'' to refer to the CRT. As amended in 1993, the sentence now states, ''The Librarian of Congress shall proceed on the basis of the proposals submitted to it. . . .'' This amendment corrects that reference.

Paragraphs (8)(A) and (B) amend section 119(b)(1)(A). Paragraph (A) strikes ''transmitted'' and inserts ''retransmitted''. Paragraph (B) strikes ''transmissions'' and inserts ''retransmissions''. These paragraphs correct two drafting errors in section 119(b)(1)(A) when it was enacted by the Satellite Home Viewer Act of 1988.

Paragraphs (9)(A), (B) and (C) amend section 203(a)(2). Paragraph (9)(A)(i) amends subparagraph (A) by striking ''(A) the'' and inserts ''(A) The''. Paragraph (9)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (9)(B)(i) amends subparagraph (B) by striking ''(B) the'' and inserting ''(B) The''. Paragraph (9)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (9)(C) amends subparagraph (C) by striking ''(C) the'' and inserting ''(C) The''.

Paragraphs (10)(A), (B) and (C) amend section 304(c)(2). Paragraph (10)(A)(i) amends subparagraph (A) by striking ''(A) the'' and inserting ''(A) The''. Paragraph (10)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (10)(B)(i) amends subparagraph (B) by striking ''(B) the'' and inserting ''(B) The''. Paragraph (10)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (10)(C) amends subparagraph (C) by striking ''(C) the'' and inserting ''(C) The''. The addition of subparagraph (C) to sections 203(a)(2) and 304(c)(2) resulted in inconsistent punctuation and this amendment makes the punctuation in sections 203(a)(2) and 304(c)(2) internally consistent.

Paragraph (11) amends the item relating to section 903 in the table of contents for chapter 9 by striking ''licensure'' and inserting ''licensing''. As originally enacted in 1984, the table of contents for chapter 9 and the text each had a different heading for section 903. The heading in the text was the same as it is now, which is ''Ownership, transfer, licensing, and recordation''. The heading in the table of contents was, ''Ownership and transfer.'' In 1997, a technical amendment changed the heading in the table of sections to its present form, which is, ''Ownership, transfer, licensure, and recordation.'' The 1997 amendment did not change the heading in the text to make it the same. This amendment makes both the table of contents and the heading in the text the same.

Paragraph (12) amends section 109 by striking subsection (e). Section 803 of the Computer Software Rental Amendments Act of 1990 amended section 109 of title 17 by adding subsection (e). According to section 804(c) the amendments made by section 803 shall not apply to public performances or displays that occur on or after October 1, 1995. Therefore, section 109 is expired.

Sec. 13211. Other copyright related technical amendments.

Section 13211 makes other technical and conforming amendments. Paragraph (a) amends title 18, section 2319(e)(2) by striking ''107 through 120'' and inserting ''107 through 122''. Paragraph (b)(1) and (2) correct an incorrect reference to an uncodified title. It is incorrect to directly cite to an uncodified title.

Subtitle C—Educational Use Copyright Exemption

Sec. 13301. Educational use copyright exemption

Subsection (a) provides that this provision may be cited as the ''Technology, Education and Copyright Harmonization Act of 2002.''

Subsection (b): Exemption of certain performances and displays for educational uses

Section 1(b) of the TEACH Act amends section 110(2) of the Copyright Act to encompass performances and displays of copyrighted works in digital distance education under appropriate circumstances. The section expands the scope of works to which the amended section 110(2) exemption applies to include performances of reasonable and limited portions of works other than nondramatic literary and musical works (which are currently covered by the exemption), while also limiting the amount of any work that may be displayed under the exemption to what is typically displayed in the course of a live classroom session. At the same time, section 1(b) removes the concept of the physical classroom, while maintaining and clarifying the requirement of mediated instructional activity and limiting the availability of the exemption to mediated instructional activities of governmental bodies and ''accredited'' non-profit educational institutions. This section of the Act also limits the amended exemption to exclude performances and displays given by means of a copy or phonorecord that is not lawfully made and acquired, which the transmitting body or institution knew or had reason to believe was not lawfully made and acquired. In addition, section 1(b) requires the transmitting institution to apply certain technological protection measures to protect against retention of the work and further downstream dissemination. The section also clarifies that participants in authorized digital distance education transmissions will not be liable for any infringement by reason of transient or temporary reproductions that may occur through the automatic technical process of a digital transmission for the purpose of a performance or display permitted under the section. Obviously, with respect to such reproductions, the distribution right would not be infringed. Throughout the Act, the term ''transmission'' is intended to include transmissions by digital, as well as analog means.

Works subject to the exemption and applicable portions

The TEACH Act expands the scope of the section 110(2) exemption to apply to performances and displays of all categories of copyrighted works, subject to specific exclusions for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' and performance or displays ''given by means of a copy or phonorecord that is not lawfully made and acquired,'' which the transmitting body or institution ''knew or had reason to believe was not lawfully made and acquired.''

Unlike the current section 110(2), which applies only to public performances of non-dramatic literary or musical works, the amendment would apply to public performances of any type of work, subject to certain exclusions set forth in section 110(2), as amended. The performance of works other than non-dramatic literary or musical works is limited, however, to ''reasonable and limited portions'' of less than the entire work. What constitutes a ''reasonable and limited'' portion should take into account both the nature of the market for that type of work and the pedagogical purposes of the performance.

In addition, because ''display'' of certain types of works, such as literary works using an ''e-book'' reader, could substitute for traditional purchases of the work (e.g., a text book), the display exemption is limited to ''an amount comparable to that which is typically displayed in the course of a live classroom setting.'' This limitation is a further implementation of the ''mediated instructional activity'' concept described below, and recognizes that a ''display'' may have a different meaning and impact in the digital environment than in the analog environment to which section 110(2) has previously applied. The ''limited portion'' formulation used in conjunction with the performance right exemption is not used in connection with the display right exemption, because, for certain works, display of the entire work could be appropriate and consistent with displays typically made in a live classroom setting (e.g., short poems or essays, or images of pictorial, graphic, or sculptural works, etc.).

The exclusion for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' is intended to prevent the exemption from undermining the primary market for (and, therefore, impairing the incentive to create, modify or distribute) those materials whose primary market would otherwise fall within the scope of the exemption. The concept of ''performance or display as part of mediated instructional activities'' is discussed in greater detail below, in connection with the scope of the exemption. It is intended to have the same meaning and application here, so that works produced or marketed primarily for activities covered by the exemption would be excluded from the exemption. The exclusion is not intended to apply generally to all educational materials or to all materials having educational value. The exclusion is limited to materials whose primary market is ''mediated instructional activities,'' *i.e.*, materials performed or displayed as an integral part of the class experience, analogous to the type of performance or display that would take place in a live classroom setting. At the same time, the reference to ''digital networks'' is intended to limit the exclusion to materials whose primary market is the digital network environment, not instructional materials developed and marketed for use in the physical classroom.

The exclusion of performances or displays ''given by means of a copy or phonorecord that is not lawfully made and acquired'' under Title 17 is based on a similar exclusion in the current language of section 110(1) for the performance or display of an audiovisual work in the classroom. Unlike the provision in section 110(1), the exclusion here applies to the performance or display of any work. But, as in section 110(1), the exclusion applies only where the transmitting body or institution ''knew or had reason to believe'' that the copy or phonorecord was not lawfully made and acquired. As noted in the Register's Report, the purpose of the exclusion is to reduce the likelihood that an exemption intended to cover only the equivalent of traditional concepts of performance and display would result in the proliferation or exploitation of unauthorized copies.[10] An educator would typically purchase, license, rent, make a fair-use copy, or otherwise lawfully acquire the copy to be used, and works not yet made available in the market (whether by distribution, performance or display) would, as a practical matter, be rendered ineligible for use under the exemption.

Eligible transmitting entities

As under the current section 110(2), the exemption, as amended, is limited to government bodies and non-profit educational institutions. However, due to the fact that, as the Register's Report points out, ''nonprofit educational institutions'' are no longer a closed and familiar group, and the ease with which anyone can transmit educational material over the Internet, the amendment would require non-profit educational institutions to be ''accredited'' in order to provide further assurances that the institution is a bona fide educational institution. It is not otherwise intended to alter the eligibility criteria. Nor is it intended to limit or affect any other provision of the Copyright Act that relates to non-profit educational institutions or to imply that non-accredited educational institutions are necessarily not bona fide.

''Accreditation'' is defined in section 1(b)(2) of the TEACH Act in terms of the qualification of the educational institution. It is not defined in terms of particular courses or programs. Thus, an accredited nonprofit educational institution qualifies for the exemption with respect to its courses whether or not the courses are part of a degree or certificate-granting program.

Qualifying performances and displays; mediated instructional activities

Subparagraph (2)(A) of the amended exemption provides that the exemption applies to a performance or display made ''by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of . . . systematic mediated instructional activity.'' The subparagraph includes several requirements, all of which are intended to make clear that the transmission must be part of mediated instructional activity. First, the performance or display must be made by, under the direction of, or under the actual supervision of an instructor. The performance or display may be initiated by the instructor. It may also be initiated by a person enrolled in the class as long as it is done either at the direction, or under the actual supervision, of the instructor. ''Actual'' supervision is intended to require that the instructor is, in fact, supervising the class activities, and that supervision is not in name or theory only. It is not intended to require either constant, real-time supervision by the instructor or pre-approval by the instructor for the performance or display. Asynchronous learning, at the pace of the student, is a significant and beneficial characteristic of digital distance education, and the concept of control and supervision is not intended to limit the qualification of such asynchronous activities for this exemption.

The performance or display must also be made as an ''integral part'' of a class session, so it must be part of a class itself, rather than ancillary to it. Further, it must fall within the concept of ''mediated instructional activities'' as described in section 1(b)(2) of the TEACH Act. This latter concept is intended to require the performance or display to be analogous to the type of performance or display that would take place in a live classroom setting. Thus, although it is possible to display an entire textbook or extensive course-pack material through an e-book reader or similar device or computer application, this type of use of such materials as supplemental reading would not be analogous to the type of display that would take place in the classroom, and therefore would not be authorized under the exemption.

The amended exemption is not intended to address other uses of copyrighted works in the course of digital distance education, including student use of supplemental or research materials in digital form, such as electronic course packs, e-reserves, and digital library resources. Such activities do not involve uses analogous to the performances and displays currently addressed in section 110(2).

The ''mediated instructional activity'' requirement is thus intended to prevent the exemption provided by the TEACH Act from displacing textbooks, course packs or other material in any media, copies or phonorecords of which are typically purchased or acquired by students for their independent use and retention ''in most post-secondary and some elementary and secondary contexts). The Committee notes that in many secondary and elementary school contexts, such copies of such materials are not purchased or acquired directly by the students, but rather are provided for the students'' independent use and possession (for the duration of the course) by the institution.

The limitation of the exemption to systematic ''mediated instructional activities'' in subparagraph (2)(A) of the amended exemption operates together with the exclusion in the opening clause of section 110(2) for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' to place boundaries on the exemption. The former relates to the nature of the exempt activity; the latter limits the relevant materials by excluding those primarily produced or marketed for the exempt activity.

One example of the interaction of the two provisions is the application of the exemption to textbooks. Pursuant to subparagraph (2)(A), which limits the exemption to ''mediated instructional activities,'' the display of material from a textbook that would typically be purchased by students in the local classroom environment, in lieu of purchase by the students, would not fall within the exemption. Conversely, because textbooks typically are not primarily produced or marketed for performance or display in a manner analogous to performances or display in the live classroom setting, they would not per se be excluded from the exemption under the exclusion in the opening clause. Thus, an instructor would not be precluded from using a chart or table or other short excerpt from a textbook different from the one assigned for the course, or from emphasizing such an excerpt from the assigned textbook that had been purchased by the students.

The requirement of subparagraph (2)(B), that the performance or display must be directly related and of material assistance to the teaching content of the transmission, is found in current law, and has been retained in its current form. As noted in the Register's Report[11], this test of relevance and materiality connects the copyrighted work to the curriculum, and it means that the portion performed or displayed may not be

[10] Register of Copyrights, report on copyright and digital distance education (1999) at 159.

[11] *Id.* at 80.

performed or displayed for the mere entertainment of the students, or as unrelated background material.

Limitations on receipt of transmissions

Unlike current section 110(2), the TEACH Act amendment removes the requirement that transmissions be received in classrooms or similar places devoted to instruction unless the recipient is an officer or employee of a governmental body or is prevented by disability or special circumstances from attending a classroom or similar place of instruction. One of the great potential benefits of digital distance education is its ability to reach beyond the physical classroom, to provide quality educational experiences to all students of all income levels, in cities and rural settings, in schools and on campuses, in the workplace, at home, and at times selected by students to meet their needs.

In its place, the Act substitutes the requirements in subparagraph (2)(C) that the transmission be made solely for and, to the extent technologically feasible, the reception be limited to students officially enrolled in the course for which the transmission is made or governmental employees as part of their official duties or employment. This requirement is not intended to impose a general requirement of network security. Rather, it is intended to require only that the students or employees authorized to be recipients of the transmission should be identified, and the transmission should be technologically limited to such identified authorized recipients through systems such as password access or other similar measures.

Additional safeguards to counteract new risks

The digital transmission of works to students poses greater risks to copyright owners than transmissions through analog broadcasts. Digital technologies make possible the creation of multiple copies, and their rapid and widespread dissemination around the world. Accordingly, the TEACH Act includes several safeguards not currently present in section 110(2).

First, a transmitting body or institution seeking to invoke the exemption is required to institute policies regarding copyright and to provide information to faculty, students, and relevant staff members that accurately describe and promote compliance with copyright law. Further, the transmitting organization must provide notice to recipients that materials used in connection with the course may be subject to copyright protection. These requirements are intended to promote an environment of compliance with the law, inform recipients of their responsibilities under copyright law, and decrease the likelihood of unintentional and uninformed acts of infringement.

Second, in the case of a digital transmission, the transmitting body or institution is required to apply technological measures to prevent (i) retention of the work in accessible form by recipients to which it sends the work for longer than the class session, and (ii) unauthorized further dissemination of the work in accessible form by such recipients. Measures intended to limit access to authorized recipients of transmissions from the transmitting body or institution are not addressed in this subparagraph (2)(D). Rather, they are the subjects of subparagraph (2)(C).

Third, in the case of a digital transmission, the transmitting body or institution must not ''engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination.'' As the context makes clear, this requirement refers to conduct that is taken in connection with the particular transmissions subject to the exemption, rather than to the broader activities of the transmitting body or institution generally. Further, like the other provisions under paragraph (2)(D)(ii), the requirement has no legal effect other than as a condition of eligibility for the exemption. Thus, it is not otherwise enforceable to preclude or prohibit conduct.

The requirement that technological measures be applied to limit retention for no longer than the ''class session'' refers back to the requirement that the performance be made as an ''integral part of a class session.'' The duration of a ''class session'' in asynchronous distance education would generally be that period during which a student is logged on to the server of the institution or governmental body making the display or performance, but is likely to vary with the needs of the student and with the design of the particular course. It does not mean the duration of a particular course (i.e., a semester or term), but rather is intended to describe the equivalent of an actual single face-to-face mediated class session (although it may be asynchronous and one student may remain online or retain access to the performance or display for longer than another student as needed to complete the class session). Although flexibility is necessary to accomplish the pedagogical goals of distance education, the Committee expects that a common sense construction will be applied so that a copy or phonorecord displayed or performed in the course of a distance education program would not remain in the possession of the recipient in a way that could substitute for acquisition or for uses other than use in the particular class session. Conversely, the technological protection measure in subparagraph (2)(D)(ii) refers only to retention of a copy or phonorecord in the computer of the recipient of a transmission. The material to be performed or displayed may, under the amendments made by the Act to section 112 and with certain limitations set forth therein, remain on the server of the institution or government body for the duration of its use in one or more courses, and may be accessed by a student each time the student logs on to participate in the particular class session of the course in which the display or performance is made. The reference to ''accessible form'' recognizes that certain technological protection measures that could be used to comply with subparagraph (2)(D)(ii) do not cause the destruction or prevent the making of a digital file; rather they work by encrypting the work and limiting access to the keys and the period in which such file may be accessed. On the other hand, an encrypted file would still be considered to be in ''accessible form'' if the body or institution provides the recipient with a key for use beyond the class session.

Paragraph (2)(D)(ii) provides, as a condition of eligibility for the exemption, that a transmitting body or institution apply technological measures that reasonably prevent both retention of the work in accessible form for longer than the class session and further dissemination of the work. This requirement does not impose a duty to guarantee that retention and further dissemination will never occur. Nor does it imply that there is an obligation to monitor recipient conduct. Moreover, the ''reasonably prevent'' standard should not be construed to imply perfect efficacy in stopping retention or further dissemination. The obligation to ''reasonably prevent'' contemplates an objectively reasonable standard regarding the ability of a technological protection measure to achieve its purpose. Examples of technological protection measures that exist today and would reasonably prevent retention and further dissemination, include measures used in connection with streaming to prevent the copying of streamed material, such as the Real Player ''Secret Handshake/Copy Switch'' technology discussed in *Real Networks* v. *Streambox*, 2000 WL 127311 (Jan. 18, 2000) or digital rights management systems that limit access to or use of encrypted material downloaded onto a computer. It is not the Committee's intent, by noting the existence of the foregoing, to specify the use of any particular technology to comply with subparagraph (2)(D)(ii). Other technologies will certainly evolve. Further, it is possible that, as time passes, a technological protection measure may cease to reasonably prevent retention of the work in accessible form for longer than the class session and further dissemination of the work, either due to the evolution of technology or to the widespread availability of a hack that can be readily used by the public. In those cases, a transmitting organization would be required to apply a different measure.

Nothing in section 110(2) should be construed to affect the application or interpretation of section 1201. Conversely, nothing in section 1201 should be construed to affect the application or interpretation of section 110(2).

Transient and temporary copies

Section 1(b)(2) of the TEACH Act implements the Register's recommendation that liability not be imposed upon those who participate in digitally transmitted performances and displays authorized under this subsection by reason of copies or phonorecords made through the automatic technical process of such transmission, or any distribution resulting therefrom. Certain modifications have been made to the Register's recommendations to accommodate instances where the recommendation was either too broad or not sufficiently broad to cover the appropriate activities.

The third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act recognizes that transmitting organizations should not be responsible for copies or phonorecords made by third parties, beyond the control of the transmitting organization. However, consistent with the Register's concern that the exemption should not be transformed into a mechanism for obtaining copies,[12] the paragraph also requires that such transient or temporary copies stored on the system or network controlled or operated by the transmitting body or institution shall not be maintained on such system or network ''in a manner ordinarily accessible to anyone other than anticipated recipients'' or ''in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions'' for which they are made.

The liability of intermediary service providers remains governed by section 512, but, subject to section 512(d) and section 512(e), section 512 will not affect the legal obligations of a transmitting body or institution when it selects material to be used in teaching a course, and determines how it will be used and to whom it will be transmitted as a provider of content.

The paragraph refers to ''transient'' and ''temporary'' copies consistent with the terminology used in section 512, including transient copies made in the transmission path by conduits and temporary copies, such as caches, made by the originating institution, by service providers or by recipients. Organizations providing digital distance education will, in many cases, provide material from source servers that create additional temporary or transient copies or phonorecords of

[12] *Id.* at 151.

the material in storage known as ''caches'' in other servers in order to facilitate the transmission. In addition, transient or temporary copies or phonorecords may occur in the transmission stream, or in the computer of the recipient of the transmission. Thus, by way of example, where content is protected by a digital rights management system, the recipient's browser may create a cache copy of an encrypted file on the recipient's hard disk, and another copy may be created in the recipient's random access memory at the time the content is perceived. The third paragraph added to the amended exemption by section 1(b)(2) of the TEACH Act is intended to make clear that those authorized to participate in digitally transmitted performances and displays as authorized under section 110(2) are not liable for infringement as a result of such copies created as part of the automatic technical process of the transmission if the requirements of that language are met. The paragraph is not intended to create any implication that such participants would be liable for copyright infringement in the absence of the paragraph.

Subsection (c): Ephemeral recordings

One way in which digitally transmitted distance education will expand America's educational capacity and effectiveness is through the use of asynchronous education, where students can take a class when it is convenient for them, not at a specific hour designated by the body or institution. This benefit is likely to be particularly valuable for working adults. Asynchronous education also has the benefit of proceeding at the student's own pace, and freeing the instructor from the obligation to be in the classroom or on call at all hours of the day or night.

In order for asynchronous distance education to proceed, organizations providing distance education transmissions must be able to load material that will be displayed or performed on their servers, for transmission at the request of students. The TEACH Act's amendment to section 112 makes that possible.

Under new subsection 112(f)(1), transmitting organizations authorized to transmit performances or displays under section 110(2) may load on their servers copies or phonorecords of the performance or display authorized to be transmitted under section 110(2) to be used for making such transmissions. The subsection recognizes that it often is necessary to make more than one ephemeral recording in order to efficiently carry out digital transmissions, and authorizes the making of such copies or phonorecords.

Subsection 112(f) imposes several limitations on the authorized ephemeral recordings. First, they may be retained and used solely by the government body or educational institution that made them. No further copies or phonorecords may be made from them, except for copies or phonorecords that are authorized by subsection 110(2), such as the copies that fall within the scope of the third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act. The authorized ephemeral recordings must be used solely for transmissions authorized under section 110(2).

The Register's Report notes the sensitivity of copyright owners to the digitization of works that have not been digitized by the copyright owner. As a general matter, subsection 112(f) requires the use of works that are already in digital form. However, the Committee recognizes that some works may not be available for use in distance education, either because no digital version of the work is available to the institution, or because available digital versions are subject to technological protection measures that prevent their use for the performances and displays authorized by section 110(2). In those circumstances where no digital version is available to the institution or the digital version that is available is subject to technological measures that prevent its use for distance education under the exemption, section 112(f)(2) authorizes the conversion from an analog version, but only conversion of the portion or amount of such works that are authorized to be performed or displayed under section 110(2). It should be emphasized that subsection 112(f)(2) does not provide any authorization to convert print or other analog versions of works into digital format except as permitted in section 112(f)(2).

Relationship to fair use and contractual obligations

As the Register's Report makes clear ''critical to [its conclusion and recommendations] is the continued availability of the fair use doctrine.''[13] Nothing in this Act is intended to limit or otherwise to alter the scope of the fair use doctrine. As the Register's Report explains:

Fair use is a critical part of the distance education landscape. Not only instructional performances and displays, but also other educational uses of works, such as the provision of supplementary materials or student downloading of course materials, will continue to be subject to the fair use doctrine. Fair use could apply as well to instructional transmissions not covered by the changes to section 110(2) recommended above. Thus, for example, the performance of more than a limited portion of a dramatic work in a distance education program might qualify as fair use in appropriate circumstances.[14]

The Register's Report also recommends that the legislative history of legislation implementing its distance education requirements make certain points about fair use. Specifically, this legislation is enacted in recognition of the following:

a. The fair use doctrine is technologically neutral and applies to activities in the digital environment; and

b. the lack of established guidelines for any particular type of use does not mean that fair use is inapplicable.[15]

While the Register's Report also examined and discussed a variety of licensing issues with respect to educational uses not covered by exemptions or fair use, these issues were not included in the Report's legislative recommendations that formed the basis for the TEACH Act. It is the view of the committee that nothing in this Act is intended to affect in any way the relationship between express copyright exemptions and license restrictions.

Nonapplicability to secure tests

The Conference is aware and deeply concerned about the phenomenon of school officials who are entrusted with copies of secure test forms solely for use in actual test administrations and using those forms for a completely unauthorized purpose, namely helping students to study the very questions they will be asked on the real test. The Conference does not in any way intend to change current law with respect to application of the Copyright Act or to undermine or lessen in any way the protection afforded to secure tests under the Copyright Act. Specifically, this section would not authorize a secure test acquired solely for use in an actual test administration to be used for any other purpose.

[13] Id. at xvi.

[14] Id. at 161–162.

[15] 15 Id.

Subsection (d): PTO report

The report requested in subsection (d) requests information about technological protection systems to protect digitized copyrighted works and prevent infringement. The report is intended for the information of Congress and shall not be construed to have any effect whatsoever on the meaning, applicability, or effect of any provision of the Copyright Act in general or the TEACH Act in particular.

Subtitle D—Madrid Protocol Implementation

Sec. 13401. Short title

This section provides that this subtitle may be cited as the ''Madrid Protocol Implementation Act.''

Sec. 13402. Provisions to implement the protocol relating to the Madrid Agreement Concerning the International Registration of Marks

This section amends the ''Trademark Act of 1946'' by adding a new ''Title XII—The Madrid Protocol,'' which contains new sections 60 through 74 with the following:

(A) The owner of a registration granted by the U.S. Patent and Trademark Office (PTO) or the owner of a pending application before the PTO may file an international application for trademark protection at the PTO.

(B) After receipt of the appropriate fee and inspection of the application, the PTO Director is charged with the duty of transmitting the application to the WIPO International Bureau.

(C) The Director is also obliged to notify the International Bureau whenever the international application has been ''restricted, abandoned, canceled, or has expired,'' within a specified time period.

(D) The holder of an international registration may request an extension of its registration by filing with the PTO or the International Bureau.

(E) The holder of an international registration is entitled to the benefits of extension in the United States to the extent necessary to give effect to any provision of the Protocol; however, an extension of an international registration shall not apply to the United States if the PTO is the office of origin with respect to that mark.

(F) The holder of an international registration with an extension of protection in the United States may claim a date of priority based on certain conditions.

(G) If the PTO Director believes that an applicant is entitled to an extension of protection, the mark will be published in the ''Official Gazette of the Patent and Trademark Office.'' This serves notice to third parties who oppose the extension. Unless an opposition and/or other court proceeding conducted pursuant to existing law is successful, the request for extension may not be refused. If the request for extension of protection is denied, however, the Director notifies the International Bureau of such action and sets forth the reason(s) why. The Director must also apprise the International Bureau of other relevant information pertaining to requests for extension of protection within designated time periods.

(H) If an extension for protection is granted, the PTO issues a certificate attesting to such action, and publishes notice of the certificate in the ''Official Gazette.'' Holders of extension certificates thereafter enjoy protection equal to that of other owners of registration listed on the Principal Register of the PTO.

(I) If the International Bureau notifies the PTO of a cancellation of some or all of the goods and services listed in the international registration, the PTO must cancel an extension of protection with respect to the same

goods and services as of the date on which the international registration was canceled. Similarly, if the International Bureau does not renew an international registration, the corresponding extension of protection in the United States shall cease to be valid. Finally, the holder of an international registration canceled in whole or in part by the International Bureau may file an application for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection in the United States based on that international registration.

(J) The holder of an extension of protection must, within designated time periods and under certain conditions, file an affidavit setting forth the relevant goods or services on or in connection with which the mark is in use in commerce and attaching a specimen or facsimile showing the current use of the mark in commerce, or setting forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

(K) The right to an extension of protection may be assigned to a third party so long as that person is a national of, or is domiciled in, or has a ''bonafide'' and effective industrial or commercial establishment in a country that is a member of the Protocol; or has such a business in a country that is a member of an intergovernmental organization (such as the EC) belonging to the Protocol.

(L) An extension of protection conveys the same rights as an existing registration for the same mark if the extension and existing registration are owned by the same person, and extension of protection and the existing registration cover the same goods or services, and the certificate of extension is issued after the date of the existing registration.

Sec. 13403. Effective date

This section states that the effective date of the act shall commence on the date on which the Madrid Protocol enters into force with respect to the United States or 1 year after the date of enactment of the act, whichever occurs later.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Sec. 14101. Short title

Section 14101 provides that this title may be cited as the ''Antitrust Technical Corrections Act of 2002.''

Sec. 14102. Amendments

Subsection 14102(a) repeals the paragraph in Section 11 of Panama Canal Act, prohibiting ships owned by persons who are violating the antitrust laws from passing through the Canal.

Subsection 14102(b) adds a new Section 3(b) to the Sherman Act to clarify that Section 2 of the Sherman Act applies to the District of Columbia and the territories.

Subsection 14102(c) repeals Section 77 of the Wilson Tariff Act and also eliminates several cross-references to Section 77 in five other statutes (the Clayton Act, the Federal Trade Commission Act, the Packers and Stockyards Act, the Atomic Energy Act of 1954, and the Deep Seabed Hard Mineral Resources Act). These cross-references occur in definitions of the term ''antitrust laws'' in the other statutes and do not change the substance of those statutes.

Subsection 14102(d) corrects an erroneous section number designation in the Curt Flood Act passed in 1998. It makes no substantive change.

Subsection 14102(e) inserts an inadvertently omitted period in the Year 2000 Information and Readiness Disclosure Act. It makes no substantive change.

Subsection 14102(f) repeals the Act of March 3, 1913, requiring that depositions in Sherman Act equity cases brought by the government be held in public.

Subsection 14102(g) repeals section 116 of the Act of November 19, 2001.

Section 14103. Effective date; application of amendments

Subsection 14103(a) provides that the changes shall take effect on the date of enactment.

Subsection 14103(b) provides that the change made by subsection 14102(a) shall apply to cases pending on or after the date of enactment.

Subsection 14103(c) provides that the change made by subsections 14102(b), (c), and (d) shall apply only to cases commenced on or after the date of enactment.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

F. JAMES SENSENBRENNER,
HENRY HYDE,
GEORGE W. GEKAS,
J. HOWARD COBLE,
LAMAR SMITH,
ELTON GALLEGLY,
JOHN CONYERS, Jr.,
BARNEY FRANK,
BOBBY SCOTT,
TAMMY BALDWIN,
(Provided, That Mr. BERMAN is appointed in lieu of Ms. BALDWIN for consideration of sec. 312 of the Senate amendment, and modifications committed to conference.)
HOWARD BERMAN

From the Committee on Energy and Commerce, for consideration of secs. 2203–6, 2206, 2210, 2801, 2901–2911, 2951, 4005, and title VIII of the Senate amendment, and modifications committed to conference:

BILLY TAUZIN,
MICHAEL BILIRAKIS,
JOHN D. DINGELL,

From the Committee on Education and the Workforce, for consideration of secs. 2207, 2301, 2302, 2311, 2321–4, 2331–4 of the Senate amendment, and modifications committed to conference:

PETER HOEKSTRA,
MICHAEL N. CASTLE,
GEORGE MILLER,
Managers on the Part of the House.

PATRICK LEAHY,
TED KENNEDY,
ORIN HATCH,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 1646, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 545 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 545

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN) pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. DIAZ-BALART asked and was given permission to revise and extend his remarks.)

Mr. DIAZ-BALART. Mr. Speaker, House Resolution 545 is a rule waiving all points of order against the conference report to accompany H.R. 1646, the Foreign Relations Authorization Act for 2002 and 2003, and against its consideration.

The underlying legislation has taken on a new meaning, Mr. Speaker, this year. The United States is leading a worldwide war against terrorism. This is a very difficult task, which requires a careful combination of strength as well as diplomacy. The legislation that we will consider today supports the needs of President Bush and his administration to conduct the foreign relations of the United States while keeping our citizens abroad safe from harm.

It provides $13.8 billion in fiscal year 2003 to help achieve these goals, including $5.2 billion for counterterrorism assistance to our allies and $1.6 billion for security at our embassies abroad.

I am very pleased to see that this report includes increased authorization levelings for human rights monitoring as part of our effort in Congress to promote human rights around the world. This legislation also requires State Department officials to work to reform the United Nations Commission on Human Rights, whose membership includes some of the world's worst human rights violators.

The underlying legislation will also help promote our Nation's message of freedom and support for democracy by providing new authorities to our international broadcasting entities, with an emphasis on those countries whose governments obviously do not permit freedom of the press.

I am pleased to see a continued commitment to our friends in Israel. Every country under international law has the right to designate its capital city. In fact, however, this has not been the case with Israel. This legislation requires compliance with existing U.S. law that recognizes Jerusalem as the capital of Israel, which has been the capital of that country since 1950.

This legislation also enacts the Middle East Peace Commitments Act of 2002, which requires the President to formally determine whether the Palestinian Authority is complying with its commitments under international

agreements, including the absolute renunciation of terrorism and violence.

It is important, Mr. Speaker, we continue to support our democratic allies around the world. For example, Taiwan has demonstrated its continued commitment to a democratic path even under the constant threat just miles off its shores. The administration has shown that they have a clear understanding of Taiwan's security needs by requesting four Kidd class destroyers which this bill provides for.

Mr. Speaker, as we continue our efforts to prevent future acts of terror, it is important that we provide the administration with the necessary tools to continue to bring the world's community on board. I would like to thank the gentleman from Illinois (Mr. HYDE), the chairman, and the gentleman from California (Mr. LANTOS), the ranking member, and all the members of the Committee on International Relations for in effect making the tough decisions required to produce thoughtful legislation that meets our most important priorities in this field, the field of foreign affairs.

I urge all of my colleagues to support this straightforward rule, noncontroversial rule as well as this very important underlying legislation.

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

□ 1445

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Florida for granting me the customary time for debate, and I yield myself such time as I may consume.

Mr. Speaker, I am very glad that the House is able to review and act on the conference report on H.R. 1646, the fiscal year 2002 and fiscal year 2003 authorizations for the Department of State; and I commend the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on International Relations, and the gentleman from California (Mr. LANTOS), his distinguished ranking member, for moving the conference process along; and I thank all the conferees for their work.

The rule providing for debate is the standard rule for a conference report. It waives all points of order against the conference report and against consideration. It provides that the conference report shall be considered as read and it allows for 1 hour of debate equally divided. As such, this rule should be supported.

This bipartisan bill has much to commend it. It authorizes $8.6 billion for the operations of the State Department and related agencies in fiscal year 2003, slightly more than the level approved in the House version of the bill. The measure's funding level includes a substantial increase for the State Department as requested by the administration.

I do want to clarify that this is not a foreign aid authorization bill which would involve the authorization of our bilateral development economic and security programs. This bill primarily authorizes funding for the State Department programs, multilateral aid administered by the State Department such as international peacekeeping funds and refugee assistance and U.S. information programs such as freedom broadcasting to the Middle East and Asia.

Most importantly, this bill authorizes $564 million for worldwide security upgrades to protect U.S. diplomatic missions and personnel abroad. It also strengthens the authority of the United States to fight terrorism as well as strengthening our commitment to Israel and peace in the Middle East, reform at the United Nations, the survival of a democratic Taiwan, the promotion of religious freedom, and protection for the victims of human trafficking.

Mr. Speaker, I am sure every Member of this body could find at least one provision in this bill that runs counter to his or her convictions about what is best for U.S. policy. For example, this bill authorizes $25.9 million for broadcasting Radio and TV Marti to Cuba. Since TV Marti reaches no one in Cuba, I find it a particulars waste of Americans' hard-earned tax dollars. There is a shocking lack of accountability in Radio Marti's professional conduct and broadcast content. Often, it broadcasts news to Cuban households many hours after such news has already been broadly reported by other sources, including sometimes even Cuban government programs such as in the case of Jimmy Carter's recent address to the Cuban people. I know that the Committee on International Relations has been looking into the lack of effectiveness of Radio and TV Marti, and I hope that this waste of U.S. taxpayer dollars will soon be remedied.

The conference report also includes a total of $5.2 billion to fund security assistance provisions, including counterterrorism and other military assistance to our allies. This section of the bill facilitates access by U.S. pilots to the Gulf Air Warfare Center in the United Arab Emirates and authorizes funding for the destruction of surplus weapon stockpiles in the former Soviet Union, Africa, and elsewhere. It also includes a new program to forgive certain Russian debts in exchange for investments in nonproliferation programs.

My colleagues will detail many of these key provisions, but I would like to take a few moments just to highlight a few. This bill serves as the vehicle for the release of funds previously appropriated for back payments of U.S. dues to the United Nations. The Omnibus Appropriations Act for fiscal year 2000 provided $926 million for U.S. back payments to the United Nations. However it conditioned the release of these funds on enactment of an authorization bill that specified U.N. agreement to certain reforms, including a decrease in the percentage of assessed U.S. contributions to the organization. These conditions were successfully negotiated by former U.S. ambassador to the United Nations Richard Holbrooke.

In May of 2001, the House passed its version of H.R. 1646 and authorized both the release of the $582 million and a third installment of $244 million. However, 2 weeks before the House considered the bill, the United States lost its seat on the U.N. Commission on Human Rights. The House responded by adopting an amendment conditioning release of the remaining installment on the return of the U.S. to the commission. Since then the United States has regained the seat. This bill, therefore, authorizes the third and final installment owed to the United Nations.

This bill also completes the process of U.N. reform under which U.S. dues to the United Nations will be reduced from 25 to 22 percent, providing American taxpayers with $2 billion in savings. In addition, this bill modestly increases the level of U.S. contributions for U.N. peacekeeping, raising it from 25 to 27 percent.

At a time when the United States is asking so much of the United Nations, it is important that we put in place the financial and legal structure that will ensure the U.S. remains a responsible and accountable leader of this singular international body.

I am also very pleased to see a number of important programs authorized in this bill. Among these is the inclusion of the Tibet Policy Act, which requires the State Department to create an office for a special coordinator for Tibetan issues. It also requires the U.S. to undertake a number of initiatives to improve the condition of human rights and religious freedom for the Tibetan people and encourage dialogue between the Chinese Government and the Dalai Lama over the future of Tibet. It also calls for the release of the 11-year-old Panchen Lam from detention by China, an act that would significantly increase confidence among the international community about China's commitment to respect the culture and religion of the Tibetan people.

The gentleman from California (Mr. LANTOS), my colleague and the ranking member, should be commended for his leadership on this issue along with our colleagues, the gentleman from New Jersey (Mr. SMITH), the gentleman from Virginia (Mr. WOLF), and the gentleman from Illinois (Mr. KIRK). This bill will also enact the East Timor Transition to Independence Act, which authorizes economic aid for East Timor and provides a framework for a strong bilateral relationship between the U.S. and the world's newest nation. I want to thank the gentleman from Illinois (Mr. HYDE), chairman, and the gentleman from California (Mr. LANTOS), ranking member, as well as the efforts of the gentleman from New Jersey (Mr. SMITH) and the gentleman from Rhode Island (Mr. KENNEDY), for their long leadership in support of freedom and human rights in East Timor.

The conference report also requires the State Department to report to Congress on the extent to which the British Government has implemented the recommendations for police reform in Northern Ireland listed in the Patten Commission's report. The establishment of a new, nonpartisan police is critical to the implementation of the Good Friday Peace Accords and bringing peace and genuine security to the people of Northern Ireland. It also emphasizes the importance of continuing the decommissioning of weapons by all Irish armed groups and the investigations of the murders of Rosemary Nelson, Patrick Finucane, and Roberts Hammill. So many of our colleagues have worked long and hard to secure a just and lasting peace in Northern Ireland, and we are all appreciative of the leadership on this provision of the gentleman from New Jersey (Mr. PAYNE), the gentleman from New Jersey (Mr. SMITH), the gentleman from Massachusetts (Mr. NEAL), the gentleman from New York (Mr. GILMAN), the gentleman from New York (Mr. CROWLEY), and the gentleman from New York (Mr. KING).

Finally, the conference report agreement also extends and strengthens authorizations provided for the Trafficking Victims Protection Act, it requires the State Department to maintain a special envoy for Sudanese issues; authorizes $5 million for a special court to try war criminals and human rights abusers in Sierra Leone; it requires annual country reports on the use of children as soldiers; and it requires the State Department to report to the Congress on U.S. efforts in Colombia to promote alternative development, recovery, and resettlement of internally displaced persons, judicial reform, and the peace process and human rights. It also requires reports on the activities of U.S. private contractors involved in counter-narcotics programs in Colombia, an issue brought so compellingly to the attention of the House by the gentlewoman from Illinois (Ms. SCHAKOWSKY) and the gentleman from Michigan (Mr. HOEKSTRA).

Mr. Speaker, this is an important bill that is long overdue, and I urge my colleagues to approve the rule and adopt the conference report on H.R. 1646.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I rise today to object to some language that is in this conference report having to do with assistance to Lebanon. There was an attempt early on with an amendment to eliminate most of the money for Lebanon, and I guess wiser heads prevailed.

I want to offer my thanks to the chairman of the full Committee on International Relations for working out an arrangement that will allow for the country of Lebanon to be authorized for $35 million. The language I object to is that they have carved out $10 million that cannot be used for the country, $10 million of the $35 million, until there is a certification from the President that a certain group that is in the country is no longer a threat. I think this is a mistake to have this kind of language in there. The country of Lebanon is 3 million people. It is a peace-loving country. It is caught in the switches between other countries who are involved in disputes. To single out this country for this kind of certification I think is without merit. I wish the language were not in there.

The $35 million is walking-around change compared to the money that is authorized for a lot of other countries. Lebanon certainly does not deserve this kind of treatment from this Congress. I know there are people in the administration, particularly in the State Department, who have strong objections to the way that Lebanon is being treated. I, too, have strong objections, and I wanted to make those objections known. I intend to vote for the rule. I know that the chairman and others have worked very hard to put together a good conference report; but my objection for the country of Lebanon needs to be noted here. Again, this to me is just an opportunity to take a very unjustified criticism of a country that has tried to work with the United States, has tried to work with other countries in the region. I object to the language, and I hope at some point people will come to respect the country of Lebanon and what the leaders there are trying to do.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I rise to state my very strong support for the conference report on the International Relations Authorization Act for fiscal year 2003. I commend the gentleman from Illinois (Mr. HYDE); the ranking member, the gentleman from California (Mr. LANTOS), as well as Senator BIDEN and Senator LUGAR, for their hard work to support the State Department at a time when alliances and international partners matter most.

By paying more of our back dues to the United Nations, we are finally stepping up to the plate and being a responsible partner in this great international organization we helped create.

This bill also makes a bit of history by authorizing a new way to protect the United States from the threat of weapons of mass destruction: debt-for-security swaps.

In June, the leaders of the G–8 nations agreed to fund nonproliferation programs at $20 billion over the next 10 years and stated that debt-for-program exchanges should be used to stop the spread of nuclear, chemical, and biological weapons.

Several months ago I introduced the first bipartisan nonproliferation legislation in the 107th Congress with the gentleman from New York (Mr. MCHUGH), the gentleman from Wisconsin (Mr. GREEN), and the gentleman from California (Mr. SCHIFF), the Russian Federation Debt Reduction for Nonproliferation Act for 2002, that would authorize the President to forgive a portion of Russia's outstanding debt to us in exchange for Russia using that money to lock down loose nuclear weapons and material.

Our colleagues in the House and Senate went a step further, including a debt-swap provision in the State Department authorization bill. Debt-for-security swaps are an important development. They will help Russia reduce its outstanding debt, involve Russia and the rest of the G–8 countries in programs that directly improve U.S. national security, and extend burden-sharing to our allies.

Mr. Speaker, now is the time to seize this existing and unique opportunity to use a tool that would both help stabilize the Russian economy and find new sources of funding for the critical programs that keep nuclear weapons out of the hands of Saddam and al Qaeda. I encourage Members to vote for this bill.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I congratulate the gentleman from Florida (Mr. DIAZ-BALART) for his very important efforts on this legislation. I also join in commending the chairman of the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), and the ranking member, the gentleman from California (Mr. LANTOS), for reporting out this very important State Department authorization. This, as we know, covers a wide range of issues; and I would like to take just a moment to focus on one particular issue, and that has to do with the new degree of flexibility which is being put into place to deal with our war on drugs.

We know that President Uribe from Colombia is here in the United States. He met with President Bush today and met with a number of us yesterday. I believe that efforts are being made by leaders in Latin America to deal with the tremendous scourge of drugs that have been flowing into this country.

□ 1500

But we had a very antiquated structure for certification, decertification, was something that went on. In fact, it was very, very poorly crafted and I believe that it played a role in exacerbating rather than improving the situation. The language that is included in this conference report provides, as I mentioned, a degree of flexibility. So it basically uses the two words ''demonstrably failed'' in describing what it is that countries would have done who are dealing with this issue.

So the point is, we need to congratulate, encourage and support those nations which are helping us deal with

the illegal drug problem that we have faced as a Nation. I particularly want to congratulate President Fox who has faced a great deal of challenges in his country. He has come forward and in dealing with this question, there is the horrible Tijuana-based Arellano Felix drug cartel. Under President Fox's leadership, two of the very powerful members of that cartel have been arrested. There are other ongoing efforts taking place between the United States and Mexico. I believe that the language that is now incorporated in this conference report will help us further deal with this difficult challenge.

I want to congratulate all those involved in this very important effort and to say that I strongly support the rule that is being managed by the gentleman from Florida (Mr. DIAZ-BALART) and the conference report that the gentleman from Illinois (Mr. HYDE) will be managing.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise in support of the rule and I must say that I support most of the provisions of the conference report. I am concerned, though, and I do object to one provision with regard to India. In section 1601 of the legislation, the President is required to submit a report to Congress with regard to U.S. efforts relative to nonproliferation benchmarks. There is mention in that regard of both India and Pakistan.

Mr. Speaker, I do not think that India should be mentioned and specified in this report for the following reasons: First of all, in the House version of the bill we did not include India. India was included at the behest of the Senate. And if you think about it, since 1998, when India and Pakistan both tested nuclear weapons, India has had very good relations with the United States and has had numerous discussions on the issue of benchmarks for nonproliferation. Right now basically there is no disagreement between the United States and India in that regard. India has stated very dramatically that it has put in place a moratorium on further testing of nuclear weapons. India has also been very adamant about a policy of no first use of nuclear weapons, which is certainly not the case with regard to Pakistan. For that reason, I do not think we need to include India in any further negotiations or in any report that would have to be submitted on behalf of the President.

I am not quite sure why it was the case that the conference report did not adopt the House version of the bill, which I think made a lot more sense than the Senate version, and I did want to raise an objection at this time because I think that once again our policy is somehow reflecting that if Pakistan is included then India has to be included as well. I think that does not make sense under the circumstances.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

I urge my colleagues to approve this rule and to approve the conference report.

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

Mr. DIAZ-BALART. Mr. Speaker, I yield myself such time as I may consume. I again would like to thank Chairman HYDE and Ranking Member LANTOS for leading the Committee on International Relations to a very, not only successful but I think admirable and commendable result in this legislation. This is, as I stated before, very important legislation. By virtue of the fact that it is in effect consensus legislation in that it is supported in a bipartisan way by an overwhelming majority obviously of the committee, but also I am sure later by the House, it does not I think in any way minimize the importance and really the brilliance of the result.

This country, the Nation, the United States of America, has not only a role in leadership, a leadership role in the world but constantly has to be developing ways to implement that leadership on behalf of protection of democracies and the spreading of the values of freedom. This legislation goes a long way in once again doing that, and so it is legislation that I strongly support and urge my colleagues to as well.

I think that if there is a chairman and ranking member whom I certainly look at and admire for their clarity and their leadership and their vision, it is the chairman and the ranking member of the Committee on International Relations. I would like to reiterate not only my thanks but my admiration for both of them. This is another example of why I think we all thank them and admire them. The issue was brought out of the fact that this legislation, for example, supports broadcasting to the oppressed people of Cuba, and it does and I am very proud of that. Despite the fact of the opposition of some folks such as the gentleman who expressed opposition once again to broadcasting to the oppressed people of Cuba, the overwhelming majority on a bipartisan basis of this Congress has supported and has continued and continues to support that broadcasting and the efforts to offer news and information as well as assistance to that people only 90 miles from our shores that have been suffering for over 40 years oppression. Again, if there is a leadership of a committee that I think demonstrates on a bipartisan basis in terms of the chairman and the ranking member clarity and lack of confusion with regard to dictators and tyranny and oppression, it is the leadership again of Chairman HYDE and Ranking Member LANTOS.

I think this is legislation that we can all be proud of, Mr. Speaker. Again, I strongly support it and the rule, which is eminently fair and permits obviously all Members to express any points of view that they may have on this legislation.

Mr. Speaker, I urge support for the rule and the underlying legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HYDE. Mr. Speaker, pursuant to the rule, I call up the conference report on the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Pursuant to House Resolution 545, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 23, 2002 at page H 6422.)

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the legislation under consideration.

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

There was no objection.

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

I rise in strong support of the conference report on H.R. 1646, the Foreign Relations Authorization Act for Fiscal Year 2003. This comprehensive foreign policy legislation will give the President and the Secretary of State the tools they need to conduct a foreign policy that strengthens the security of the United States, protects American interests and promotes American values.

Mr. Speaker, it is traditional that in matters of foreign policy the Congress leaves the President and the Secretary of State some flexibility. This legislation respects that tradition, but it also sets limits, both on the amounts that may be spent and on the purposes for which they may be used. It identifies foreign policy priorities and it requires that Congress be kept informed.

Mr. Speaker, this conference report reaffirms and strengthens the authority of the U.S. officials to combat terrorism and to protect our embassies and the people who work in them. It also reaffirms and strengthens the United States' commitment to the survival of Israel and to a just peace in the Middle East, to United Nations reform, to the continued existence of a democratic Taiwan, and to religious freedom and other fundamental human rights.

To be specific, Mr. Speaker, this legislation will enhance our national security by authorizing $1.6 billion for security at our embassies and other United

States missions abroad and by providing new law enforcement authorities for the diplomatic security agents who are charged with the protection of these missions. It will also authorize new counterterrorism assistance to countries that are helping us in this global struggle, and provide new authorities for the State Department's Bureau of Verification and Compliance, which monitors compliance by foreign governments with arms control agreements in order to stop the flow of weapons of mass destruction to terrorists and to rogue regimes.

The conference report also reaffirms and strengthens our commitment to freedom and democracy by setting aside funds for enhanced human rights monitoring, extending the life of the U.S. Commission on International Religious Freedom, providing for enhanced U.S. diplomatic efforts to promote human rights in Tibet and Vietnam, and requiring State Department officials to work for reform of the United Nations Commission on Human Rights whose membership now includes some of the world's worst human rights violators.

This legislation would also complete the process of United Nations budget reform which we began several years ago under which the U.S. dues to the U.N. will be lowered from 25 percent to 22 percent of the total. Our contributions to U.N. peacekeeping operations will also be reduced through the end of fiscal year 2004 and thereafter will be capped at 25 percent. In addition, 15 provisions promote sound financial and management practices at the U.N. and its affiliated agencies.

The conference report will strengthen our bilateral relationship with important allies, such as Israel and Taiwan. It not only provides enhanced antiterrorism assistance for Israel but also contains provisions to spur compliance with existing U.S. law recognizing Jerusalem as the capital of Israel. The conference report also includes the Middle East Peace Commitments Act of 2002, which requires the President to determine whether the Palestinian Authority is complying with its commitments under international agreements, including the renunciation of terrorism and violence, and to report to Congress on what actions will be taken in the event of noncompliance. The legislation also authorizes the transfer to Taiwan of four Kidd class destroyers, as requested by the Bush administration, and requires that Taiwan be treated for purposes of military assistance as though it had been designated as a major non-NATO ally.

□ 1515

Finally, Mr. Speaker, the bill contains important provisions to protect a variety of other vital American interests. For instance, it requires a plan from the State Department for improving the recruitment of veterans into the Foreign Service, as well as a report on steps taken by the U.S. Agency for International Development to ensure that the bidding procession is fair to small businesses in the United States. The legislation will require senior State Department officials in the law enforcement bureau to have some experience with law enforcement and/or international counternarcotics efforts, and it will require the State Department to report to Congress on foreign governments that refuse to extradite criminals for prosecution in the United States or to comply with the Hague Convention on International Child Abduction, as well as on joint cooperative efforts to eradicate opium in Colombia.

Mr. Speaker, I urge my colleagues to vote ''yes'' on this important legislation.

I would like the record to show what a pleasure it was to work with the ranking Democrat, the gentleman from California (Mr. LANTOS), whose cooperation and vision has added greatly to the end product.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this conference report.

Mr. Speaker, first I want to thank my good friend, the gentleman from Illinois, for his most gracious words.

Mr. Speaker, let me at the outset congratulate the distinguished chairman of the Committee on International Relations on bringing this conference report to the floor. Since this matter last came before the House, a myriad of procedural and substantive issues blocked the path of this bill. At every turn, the outstanding leadership of the gentleman from Illinois (Chairman HYDE) brought us closer to our shared goal, and today an important and very substantive bill is before us.

Mr. Speaker, I believe this bill blends the very best features of the original House-passed measure and the Senate amendments. The conference report authorizes funds for the conduct of the foreign relations of the United States of America and funds urgent U.S. priorities, such as the security of our embassies abroad, broadcasting to the Middle East and Asia to communicate our values and points of view to foreign audiences, protection of refugees, and scores of other issues.

Perhaps most significantly, Mr. Speaker, our bill takes a huge step towards normalizing our relations with the United Nations. It allows payment of our remaining arrears payments to the U.N. and clears our debts with a host of other smaller, but important, international organizations.

In addition, our bill includes a new authorization that clears the way for the United States to begin paying our bills on time instead of a year late. Because of late payments, the U.N. has been forced to adopt unsound budgetary practices. Our legislation will help put the United Nations and other international organizations on a proper and businesslike financial footing.

Mr. Speaker, I am particularly delighted that the conference report includes language on the reentry of the United States into UNESCO, the United Nations Economic, Social and Cultural Organization. Several of us have been working for years to bring about this result, and I am truly pleased that in his speech before the United Nations on September 12, President Bush added his support for this critical initiative. The conference report now reflects this new consensus, which is truly bipartisan, to rejoin this important organization, so that the voice of the United States will be loud and clear in UNESCO.

Our actions are particularly timely, as we are in the midst of working with the United Nations to enforce U.N. Security Council resolutions aimed at Iraq. Our bill clearly demonstrates Congress' commitment to multilateralism, and it offers a vote of confidence in the United Nations. It is now time for the United Nations to prove itself worthy of such confidence by defending its principles and enforcing its resolutions. With the passage of this bill, the United States will have done its part. Now the Members of the United Nations Security Council must do theirs.

Mr. Speaker, there are a number of other important features in this bill, and I would like to highlight some of them.

Our bill authorizes U.S. counterterrorism and nonproliferation assistance as well as military assistance to recent and future NATO entrants and some of our key allies in the war against terrorism.

The bill also includes a trailblazing initiative to strengthen nonproliferation programs in Russia while retiring that nation's huge Soviet-era debt. Under our initiative, the United States will forgive that debt, and Russia will use the savings to pursue programs, such as securing its stocks of weapons-grade uranium and plutonium from terrorists and state sponsors of terrorism.

The bill has numerous important provisions on the Middle East, including the stopping of illegal weapons transfers to the Palestinians and ensuring that the PLO is abiding by the commitments it made almost a decade ago in 1993 to stop the use of violence and to negotiate peacefully. Our bill reaffirms United States policy that Jerusalem is the undivided and eternal capital of the State of Israel.

I also note that a compromise provision on Lebanon included in the conference report will create a real incentive for that government to deploy its forces along its own national frontier in areas currently controlled by Hezbollah, a terrorist organization. Our bill provides for new exchange programs for Sudanese oppressed by war and for scientists who conduct research on HIV–AIDS.

Our legislation, Mr. Speaker, provides that the Secretary of State should establish programs to train scientists and public policy experts on

ethical issues relating to drug trials, allowing governments in developing countries to evaluate any trials by foreign pharmaceutical companies on their citizens.

I am particularly pleased, Mr. Speaker, that the conference report contains the Tibetan Policy Act of 2002, legislation I introduced along with my good friends and colleagues, Senator FEINSTEIN, the gentleman from New York (Mr. GILMAN), and the gentleman from Illinois (Mr. KIRK). This legislation is the first piece of comprehensive Tibet legislation ever enacted in the Congress of the United States, and it will send a strong signal to the Chinese Government that the United States has not forgotten the plight of Tibet and its people. Our legislation will promote human rights and religious freedom in Tibet, and it will ensure the development sponsored by international institutions benefits the people of Tibet.

The conference report also contains measures I introduced, along with the gentleman from New Hampshire (Mr. KENNEDY) and many others, to help the people of East Timor. After more than 2 decades of brutal Indonesian rule in East Timor and the enormous devastation subsequent to East Timor's vote for independence, our legislation will ensure that East Timor's people get the assistance they need to get back on their feet.

In addition, Mr. Speaker, our act provides for ensuring that those who commit crimes against humanity are not treated with impunity. In particular, we provide U.S. funding for the Special Court in Sierra Leone, which will deal with the human rights atrocities from that country's deadly civil war and authorizes a new U.S. rewards program to help apprehend those that the Special Court indicts.

Our legislation reauthorizes funding for victims of human trafficking, extends the life of the Commission on International Religious Freedom, and ensures that human rights are more fully integrated into the State Department's policy considerations.

Mr. Speaker, this is a major piece of legislation, crafted in a truly bipartisan manner with a great deal of statesmanship on the part of many Members. But I particularly want to pay special tribute to my good friend, the gentleman from Illinois (Mr. HYDE), the distinguished chairman of the Committee on International Relations, for his leadership on this most important legislation. I urge all of my colleagues to support it.

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

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, I rise in support of this legislation, but I have a serious reservation that I would like to discuss. I speak as chairman of the Subcommittee on Drug Policy and cochair of the Speaker's Drug Task Force to express my concern with the permanent modification to the annual drug certification process contained in this bill.

The annual certification process is one of the strongest tools that we have as a Nation to ensure full cooperation from other nations with our efforts to control international narcotics traffic by conditioning U.S. foreign aid on such full cooperation. I believe that this is a reasonable and basic condition on the use of taxpayer dollars. Clearly, American workers should not be asked to subsidize the programs of foreign governments that will not help us stop drug traffic.

As a practical matter, we have also heard scores of anecdotal reports that the threat of decertification often has been the only real means for American officials serving abroad to get meaningful cooperation on matters such as extradition, law enforcement, and many other means of controlling the drug trade.

In fact, I was part of the Presidential delegation down to the swearing in of the new President of Bolivia; and outgoing President Cariaga made a special pitch to me and the other members of the delegation, Do not compromise this regulation. He said it was the only tool that they really had in Bolivia to take them down from supplying one-third of our cocaine down to about 2 percent, and he said that this was the most effective tool.

I appreciate very much the work that the gentleman from Illinois (Chairman HYDE) and his staff did to minimize what I believe will be a permanent weakening of the certification process in this legislation. I was disappointed that the administration supported weakening the certification standard from fully cooperating, which has been proven to work successfully over several years, to leaning toward a new standard that would only decertify those countries that have failed demonstrably to make substantial efforts to cooperate.

Instead of the burden falling on countries who want American aid to cooperate completely with our efforts, we will now presume in many cases that the foreign nations are cooperating, and the State Department will have to prove that they are not doing so. No major drug source or transit country should ever presume that it is entitled to American money, and this body certainly should not enshrine such a presumption into law.

I am particularly concerned that it appears that the administration and the other body were determined to weaken the standard to satisfy a single foreign country. I worked with the gentleman from Florida (Mr. MICA), who has long been involved with this statute, to propose an alternative. The alternative would have kept the current standard for decertification, but only would have publicly named those countries who are not fully cooperating, instead of the entire majors list, which will still be made public under the modified law.

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We believe that this would have addressed the concerns of the nations. They have talked to me on every visit down to Central and South America, and they are concerned about this listing and seeming to have to go through a proving process, but it would only have listed those who are not fully cooperating, and would have still maintained our option to enforce tough sanctions.

I am still baffled that the administration would not work with us on this compromise which I believe is far superior to the provision in the bill today.

I am pleased, however, that the conferees agreed to change the certification reporting date back to September 15 from early November, which had been proposed in the original version of the bill. An early November report would have essentially removed any congressional role from the process.

I also strongly support the bill's provision allowing the President to use the old ''fully cooperating'' standard in making certification determination as he sees fit. I fully encourage the administration to use this standard as the basis for its determinations in the coming year, rather than the weaker ''demonstrably failed'' standard included in this bill. The traditional standard has been successful for many years as a tool for our foreign policy and has reflected congressional intent for many years on the proper standard to be applied in allocating taxpayer dollars. Unfortunately, the new standard seems only to reflect an agreement between the administration and a few select Members of Congress.

Let me give one specific example. If a Nation does not cooperate with us on extradition, one of the toughest and most important things, does that mean that they have demonstrably failed, or does it mean they are not fully cooperating? Clearly, they would not be fully cooperating, but it is not clear that they would have demonstrably failed. So at the margins of the real world, unless the administration takes the fully cooperating standard, we are in a real box here.

My question would be, is this going to be our new standard on terrorism? Is this going to be our new standard on human rights? If not, why is it different on drugs than it is on human rights and terrorism? I know that it has been offensive for us to list all of these different countries and try to make them prove the case, but we need something more than ''demonstrably failed'' and we need something that enables and gives the administration the flexibility. I hope they will exercise what they have been given in this bill, because there is nothing more tragic

right now going on in America, thousands of people dying on our streets because of drug abuse and the cocaine and heroin and methamphetamines and BC Bud pouring into this country, and I hope that we do not back up on this administration on drug policy.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Vermont (Mr. SANDERS), my good friend and our distinguished colleague.

Mr. SANDERS. Mr. Speaker, I thank my good friend, the gentleman from California (Mr. LANTOS), for yielding me this time.

Mr. Speaker, I rise today in strong support of the Israel-Arab Peace Partners Program, which is reauthorized in H.R. 1646. The Israel-Arab Peace Partners Program is a program that I helped to create in 1999 with my good friend, the gentleman from New York (Mr. GILMAN). I would like to thank the gentleman from New York (Mr. GILMAN) for his leadership on this program and for his help to ensure that it was reauthorized in this bill and that it receives proper funding in the appropriations process. I would also like to thank the gentleman from Illinois (Mr. HYDE) very much for his support and for his effort, as well as the ranking member, the gentleman from California (Mr. LANTOS), who has been very supportive of the effort as well.

The Israel-Arab Peace Partners Program authorizes a $750,000 pool of grant money within the State Department's Bureau of Educational and Cultural Affairs to fund public and private nonprofit organizations for people-to-people activities with participants from Israel, the West Bank, Arab countries, and the United States. Through this program, American organizations link up with Israeli, Arab, and American partners to exchange skills and ideas on issues such as health care, the peace process, the environment, and education. By working on issues of common interest to all, people of the region are able to form bonds that cross borders and build trust and skills that not only helps each of their individual communities, but also helps bring them closer to peace. In addition, it brings American citizens and organizations in contact with people from a region where the United States plays such a crucial role.

I think it is important to note the wide range of well-respected groups that have participated in the program over the last few years. Brandeis University, Catholic Relief Services, Fairfax County Public Schools, St. Michael's College, Arava Institute for Environmental Studies, Seeds of Peace, American-Jewish Joint Distribution Committee, Conflict Management Group, and American University. Some of these groups already have well-established programs in the Middle East; for others the Israel-Arab Peace Partners Program provides an opportunity to begin programs that will grow in the years to come. The more groups we can aid in establishing ties in the region, the better chance we have to build a long lasting network of organizations which are working toward professional development, community exchanges, and peace.

This summer I was able to meet with a group of 20 Israeli, Palestinian, Jordanian, and American students who were here in Washington to participate in a program funded through the Israel-Arab Peace Partners Program. Amid all the senseless killing and suffering going on in the Middle East, I was amazed to see this group of students come together to study the environment. For many of the Israeli students, it was their first time meeting an Arab person their age and vice versa. After working together on month-long, environmentally-focused internships all across this country, these students began to see each other not just as Arabs or Israelis or Americans, but as colleagues and friends. They were able to understand a little bit better what it was like to live as an Israeli or an Arab in the Middle East.

This understanding and the real life professional skills that they learned from each other and through their internships was, to me, a ray of hope amid all the devastation in the Middle East, and it really was an honor to see people from the Middle East, from Israel, from the Palestinian Authority, from Arab countries coming together in the midst of all of the horror that is existing there, talking about the environment, talking about how people can work together to make the entire region a better place in which to live.

So, Mr. Speaker, I am very strongly supportive of this effort. I think the relatively small amounts of money that we are spending here to bring people together who are living amidst all of the horror that is going on in the Middle East, to have Arabs talking to Jews talking to Christians, is exactly what we should be doing. I would hope that this becomes a step forward in continuing to have the United States fund programs like this.

Again, I want to thank the chairman and ranking member for their strong support.

Mr. HYDE. Mr. Speaker, I am very pleased to yield 3 minutes to the learned gentleman from New York (Mr. FOSSELLA).

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

Mr. FOSSELLA. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time.

I would like to highlight one provision in this conference report that I think is critical and underscores why there needs to be a consistent, government-wide policy when it comes to dealing with victims of terrorism.

In the first half of 2002, Congress introduced several legislative initiatives to allow all victims of terrorism equal opportunity to recover damages from the assets of terrorists and State sponsors of terrorism. The purpose of the bill is to allow victims of terrorism to obtain justice and, simultaneously, to hold accountable those who commit and support terror. Provisions have passed both the House and the other body by a recorded vote of 81 to 3.

The proposed language included in the State authorization conference report will allow only two victims to receive compensatory damages for acts of international terrorism from the frozen assets of designated State sponsors of terrorism and completely ignores what Congress has attempted to achieve this year on behalf of all of the victims. Now, this is not to take away from the victims of terrorism. It is important. They suffered, they suffered greatly, and they are entitled to compensation. But what this underscores and highlights really is important, because all of those folks who may have suffered the same set of circumstances, even worse in some cases, from the same groups of terrorists or those who sponsor terrorism, have been shut out and denied the same level of justice that others on a piecemeal approach have obtained.

In light of what has happened in the last year, where potentially we are looking at thousands of victims of terrorism, is it not about time that an American citizen who suffers from the hands, the violent hands of a terrorist or those who sponsor terrorism and is able to obtain a judgment where the assets are frozen should be entitled to the same set of rights? Instead, what we have, and I hope it does not continue, but unless we pass it in the two competing bills in the House and the Senate, it will; unless we do something about it, each year there will be victims, and whoever can hire the best attorney or the best lobbyist will find its way into one of these conference reports. As long as that continues, there will be families and victims of terrorism who will be denied the same set of compensatory damages. I do not think it is right, I do not think it is just. I just want to bring that out to underscore why we need to pass it for all Americans who are entitled to the same set of rights and opportunities when it comes to justice.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from California (Mr. SCHIFF), my good friend and distinguished colleague.

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

Mr. Speaker, I rise today in support of H.R. 1646, the Foreign Relations Authorization Act and, in particular, language in the bill on Russian Federation Debt for Nonproliferation. I want to applaud the conferees for including this very important language on ways to reduce the threat of weapons of mass destruction in the final conference report.

The demise of the Soviet empire ushered in a new post-Cold War period and

a very real sense of urgency with regard to the former Soviet Union's weapons stockpile. It has become tragically clear that new threats have emerged and terrorists and the States that sponsor them are actively in search of nuclear, biological, and chemical weapons technology and materials.

During the last 11 years, the Nunn-Lugar program, which was launched to reduce threats from the former Soviet Union, has done much to dismantle these stockpiles. However, continuing economic and social weaknesses in Russia, coupled with an eroding early warning system, poorly secured Russian weapons materials, and poorly paid Russian weapons scientists and security personnel increase the threat of mass destruction on an unprecedented scale if such materials fall into the hands of terrorists or rogue nations.

Now, more than ever, we must make a fundamental shift in the way we think about the spread of weapons of mass destruction and our own national security. Using Russia's debt to the United States as a funding mechanism for programs addressing the inadequate security of the Russian weapons stockpile is an innovative approach we must explore.

The Russian Federation Debt Reduction for Nonproliferation Act, which I coauthored with the gentlewoman from California (Mrs. TAUSCHER), the gentleman from Wisconsin (Mr. GREEN), and the gentleman from New York (Mr. MCHUGH), will provide a means to forgive the loans and credits owed to the United States by Russia in exchange for cooperation with U.S. efforts to monitor and reduce weapons-usable nuclear material, nuclear and other weapons of mass destruction, and the facilities where they may be built.

Securing Russia's arsenal is a massive challenge, but not an impossible one. While the cost of a terrorist attack on the United States involving Russian expertise or smuggled Russian nuclear chemical or biological materials is staggering, funding for these simple measures that can prevent these attacks is sensible and urgent, and I urge Members' support.

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

Mr. Speaker, before I yield back the balance of my time, I would just like to express my appreciation to Committee staff for the exceptionally effective work that they have put into this legislation. Legislation of this scope and magnitude could never be completed without the dedicated effort of our staff.

The Republican staff of the Committee on International Relations worked with us in a bipartisan way. I want to express my particular gratitude to Kristen Gilley, Walker Roberts and Joseph Rees of the majority staff.

I want to acknowledge the efforts of all of the members of the Democratic staff, since in a bill of this scope, everyone had a hand in the final product. Four people deserve particular recognition.

David Abramowitz, our Democratic Chief Counsel has devoted enormous effort to the successful completion of this bill. We have greatly benefited from his solid legal and political judgement.

David Fite, played a critical role in the security provisions of this bill, and I want to thank him for his outstanding contributions.

lNisha Desai was heavily involved in the initial drafting and adoption of this bill. She has since left our staff, but her contribution was significant.

Peter Yeo, Deputy Democratic Staff Director, as always played an extremely helpful role in bringing this legislation to completion.

In addition, I want to express thanks to Art Rynearson of the Office of Senate Legislative Council, who helped assure that the substances of the legislation was accurate and accomplished what we intended. He is one of thee many unsung heroes who makes this institution function, as we owe him our thanks.

Mr. Speaker, I again congratulate the Chairman of the Committee, and yield back the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I rise today to signal my intent to support H.R. 1646, the State Department Authorization Act. It is a good bill with many provisions that will aid the State Department in its mission around the world.

However, I also must express my deep disappointment at the inclusion of Section 1224 regarding assistance to Lebanon. Section 1224 withholds $10 million of the Economic Support Fund allocated to Lebanon for the Fiscal Year 2003 and for all subsequent years unless and until the President certifies that the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel and that the government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

I do not oppose the goal of extending Lebanese control to southern Lebanon. Unfortunately, this provision does absolutely nothing to further that goal and will in fact hinder any progress. The U.S. should continue to press the Lebanese and Syrian governments on this point. The people of Lebanon will only know long-term peace and stability when Lebanon is willing and able to assert its independence. The U.S. must continue to press for full compliance with UN Security Council Resolution 425. However, this provision will not lead us toward this goal.

I have supported efforts to expand U.S. Agency for International Development (USAID) activities in southern Lebanon following the withdrawal of Israeli armed forces. However, far from supporting Hezbollah, this assistance undermines that terrorist organization by eliminating the desperate conditions that so many cite as a reason that region is a terrorist haven.

I have received repeated assurances that U.S. money only goes through American nongovernmental organizations to support projects that provide clean water, medicine, agricultural assistance and other basic humanitarian needs. None of this money goes to the Lebanese government or to any terrorist organization.

With these facts in mind, it makes no sense to me to withhold funding that undermines terrorist control of southern Lebanon. Until the grip that Hezbollah has on that region is weakened, the government of Lebanon will not be able to deploy armed forces to the border.

Unfortunately, Section 1224 only punishes the people of Southern Lebanon rather than offer a solution to the security needs of Israel.

I will vote for the bill, but it is my hope Congress will revisit this issue in future legislation.

Mr. SHAYS. Mr. Speaker, I support the inclusion of Section 213 in H.R. 1646, the Department of State Authorization Act Conference Report. This section of the conference report repeals Section 738 of the 2001 Agriculture Appropriations Act, which gave unwarranted special treatment to foreign agriculture attachés. Both the State Department and the Office of Management and Budget support repealing Section 738, and H.R. 1646 does just that.

In 1978, Congress, with the support of the Office of Management and Budget, endorsed the State Department as the sole manager for overseas property. In 1990, Congress directed State to implement a uniform housing policy for and with the input of all agencies overseas.

That system worked. It has the support of OMB, the General Accounting Office, and apparently had the support of Congress. But last year, a little-noticed section of the Agriculture Appropriations Act changed the system for one agency: the Foreign Agriculture Service.

The provision required the State Department to obtain FAS approval to sell property originally purchased to house FAS employees overseas. Moreover, FAS gained the right to occupy new residences permanently.

That provision created an exception for one agency, an exception that if copied by other agencies would disrupt the equitable management of overseas property. Overseas property management would lose much needed flexibility and make the housing of overseas personnel more difficult and costly.

At my request, GAO looked into this matter. In a July 11th letter, GAO concluded the ''restrictions on the sales of residences purchased for agricultural attachés do not appear to be in the government's best interests. As the single manager for overseas property, State is responsible for implementing cost-effective decisions about the sale of unneeded overseas real estate and using sales proceeds for the government's highest priorities. . . . [T]he restrictions weaken efforts to improve management of the government's overseas properties and conflict with congressional and executive branch efforts to establish State as the single real property manager.''

The properties at issue are not just regular old houses. In Cairo, the residence is a 4,200-square-foot, two-level house with four bedrooms, three bathrooms, two living rooms, a dining room, two kitchens, a sunroom, a breakfast room, and terraces. In Vienna, the residence is a 3,500-square-foot, three-story villa with six bedrooms, three bathrooms, a terrace, breakfast room, basement, and garage. Both houses exceed established housing standards.

This unsound FAS exception is delaying the sale of these valuable properties, a sale that could net at least $2.1 million. The provision may also complicate the sale of other properties, such as an underutilized property in Bangkok worth $50 million.

The State Department manages 3,500 properties in more than 220 locations overseas and has had the authority to sell those properties since 1926. Proceeds from sales are used to acquire and maintain other properties. In the wake of the 1998 embassy bombings in

Kenya and Tanzania and other terrorist attacks, proceeds from these sales are used to ensure the safety of our embassies and personnel abroad. Providing special treatment to FAS prevents the State Department from implementing some of the measures necessary to protect our diplomatic personnel.

Mr. Speaker, the letter from GAO, ''Current Law Limits the State Department's Authority to Manage Certain Overseas Properties Cost Effectively'' (GAO–02–790R, July 11, 2001) follows. A more complete version of the letter is available at http://www.gao.gov/new.items/d02790r.pdf.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, July 11, 2002.

Hon. CHRISTOPHER SHAYS,
Chairman, Subcommittee on National Security, Veterans Affairs, and International Relations, Committee on Government Reform, House of Representatives.

Subject: Current Law Limits the State Department's Authority to Manage Certain Overseas Properties Cost Effectively

DEAR MR. CHAIRMAN: The Department of State is the central manager for real estate at U.S. embassies and consulates and has the statutory authority to sell properties and use the sales proceeds to acquire and maintain other overseas properties. Section 738 in the fiscal year 2001 Agriculture Appropriations Act prohibits State from selling residences purchased to house agricultural attachés without approval from the Foreign Agricultural Service (FAS) and requires the department to use the proceeds from such sales to purchase residences for these attachés. Legislation currently before the Congress would repeal section 738.

At your request, this report discusses the effect of section 738 on State's management of overseas properties. We examined this issue as part of our review of the Department of State's performance in identifying and selling unneeded overseas real estate. In conducting this assignment, we interviewed officials and analyzed records at the Department of State, FAS, and the Office of Management and Budget (OMB).

RESULTS IN BRIEF

Section 738 limits the Department of State's authority to implement cost-effective decisions about sales of unneeded overseas property and the use of sales proceeds. Because of section 738's restrictions, State has delayed two property sales valued at nearly $4 million that appear to be in the government's best interests. FAS is concerned that if section 738 is repealed, selling these properties will result in increased costs for FAS since it would have to lease housing for attachés who previously lived rent-free in government-owned housing. State acknowledges that this could occur but save its financial analysis shows that selling the houses benefits the government as a whole. Although section 738 applies only to residences purchased for agricultural section 738 applies only to residences purchased for agricultural attachés, OMB and State are concerned that it could lead to fragmented and less cost-effective management of overseas property if other agencies seek similar treatment for their senior representatives. In our view, section 738's restrictions do not appear to be in the government's best interests.

This report suggests that the Congress may wish to consider repealling section 738. State officials, commenting on a draft of this report, said they agreed with the report's information and conclusions regarding the negative effects of section 738 on overseas property management. FAS officials reiterated their view that repealing section 738 could result in increased costs for FAS. We believe that if the section's repeal and sale of residences used by agricultural attachés increases FAS costs, the Department of Agriculture can request that the Congress consider providing additional funds for FAS operations.

BACKGROUND

The Foreign Buildings Act of 1926, as amended, authorizes the Secretary of State to sell overseas properties that are used to support diplomatic and consular operations in foreign countries. The Department of State manages about 3,500 government-owned properties—including embassy and consular office buildings, housing, and land—at more than 220 overseas locations. The law authorizes the Secretary to use the proceeds from the sale of overseas properties to acquire and maintain other overseas properties and requires the Secretary to report such transactions to the Congress with the department's annual budget estimates. The Secretary has delegated this authority to State's Bureau of Overseas Building Operations.

Over the years, as a result of congressional and OMB actions, overseas property management has been consolidated under State. In 1978, the Congress endorsed State as the single manager for overseas property and asked OMB to prepare a proposal for implementing this concept. In 1979, OMB issued a report that supported the concept of single management and acquisition planning for overseas property under State. OMB noted that the Congress was strengthening and broadening State's existing role as the central manager for overseas property. In 1990, the Congress directed State to establish and implement a uniform housing policy for agencies' overseas personnel. Resulting new overseas housing regulations, issued in 1991 and 1992 with the agreement of the foreign affairs agencies and the Department of Defense, reinforced State's authority to act as the single manager for overseas property. These authorities show that the Congress and the executive branch had intended that State should manage overseas property in a consolidated, integrated manner and that doing so would be in the government's best interests. We have supported this concept since the 1960s because it is more effective, efficient, and economical than having multiple property managers.

Since 1997, State has increased efforts to identify and sell unneeded overseas real estate in response to congressional direction and our recommendations. As part of this effort, State sold two residences occupied by agricultural attachés for about $855,000 and proposed selling three others for more than $4 million. FAS argued that these properties were purchased to house its attachés; and consequently, FAS should have a say in approving the sales and in determining how the sales proceeds should be used. As a result, FAS sought and the Congress enacted legislation that requires State to obtain FAS approval to sell residences purchased to house agricultural attachés. Additionally, State must use the proceeds from such sales to acquire other suitable residences for agricultural attachés (not necessarily at the same post), and FAS has the right to occupy these properties permanently. According to FAS, State manages 13 properties purchased for agricultural attachés.

SECTION 738 LIMITS STATE'S AUTHORITY TO MAKE COST-EFFECTIVE DECISIONS ON CERTAIN PROPERTIES

Section 738 of the fiscal year 2001 Agriculture Appropriations Act limits State's authority to sell unneeded property by making sales decisions contingent on FAS approval. Proposed sales of residences in Cairo, Egypt, and Vienna, Austria, illustrate the potential limitations. Although selling these properties appears to be in the U.S. government's best interests, State has postponed these sales because of concerns about section 738. In October 1998, the State Inspector General reported that the Cairo and Vienna residences were larger than housing standards allow, were underutilized, and should be sold. According to State records, the Cairo residence is a 4,200-square-foot, two-level house with four bedrooms, three bathrooms, two living rooms, a dining room, two kitchens, a sunroom, a breakfast room, and terraces. The Vienna residence is a 3,500-square-foot, three-story villa with six bedrooms, three bathrooms, a terrace, breakfast room, basement, and garage. These residences are larger than the housing standards allow. Figures 1 and 2 show photographs of the Cairo and Vienna residences.

State financial analyses suggest that selling the Cairo and Vienna residences would yield net benefits for the government of at least $2.1 million. In addition, using a measure of investment performance, State determined that selling the two residences was a substantially more efficient use of government resources than continued ownership. In February 2001, FAS informed State that it approved the sale of the Vienna residence on condition that the sales proceeds were used to purchase a replacement residence in Vienna and new residences for agricultural attachés at two other posts. Because FAS's proposed use of the proceeds would not address the government's highest priority overseas property needs, State officials decided to postpone the Vienna sale pending repeal of section 738. State subsequently postponed the Cairo sale for the same reason.

State and OMB believe that the sales proceeds should be used to meet the government's highest priority needs. According to its long-range facilities plan, State seeks to reinvest sales proceeds where there is the greatest need or the most opportunity to reduce government operating costs. This plan notes that, in recent years, most sales proceeds have been earmarked for specific capital construction projects, such as building secure embassies. In future years, State plans to use sales proceeds to purchase additional residential housing. Within this broad priority, State plans to direct these proceeds to several objectives: (1) Buying residential properties in locations that offer the greatest rent savings to contain leasing costs, (2) buying earthquake resistant residential properties in seismic areas to address safety issues, and (3) buying key diplomatic properties. Although we did not assess State's priorities or use of proceeds from property sales, its approach is consistent with recommendations we made in 1996 regarding using sales proceeds for the highest priority overseas facility needs.

FAS believes that the sales proceeds should be used to purchase replacement and additional residences for agricultural attachés—not to purchase properties according to State's priorities. FAS said that past sales had displaced two of its attachés from government-owned housing, forcing it to pay about $400,000 over the past 5 years to lease replacement residences. FAS is concerned about having to cut its program budgets to fund additional leases for replacement housing. In addition, FAS complained that it had insufficient advance notice of the proposed sales and had difficulty freeing up funds to pay for replacement housing for displaced attachés.

State acknowledged that FAS may have to lease replacement residences if section 738 is repealed and the two residences are sold. However, financial analyses of the proposed sales considered these costs in determining

that they were cost effective for the government. State also acknowledged that unanticipated sales could cause short-term budgetary disruptions. As a result, in June 2001, assuming repeal of section 738, State offered to pay for leasing replacement housing until FAS could build these costs into its budget in cases where State disposed of the properties with less than 2 years' advance notice. In January 2002, FAS responded that, before agreeing to any sales, it would require State to provide appropriate government-owned replacement housing within 2 years and expect State to make every effort to ensure that sales did not affect FAS's budget. FAS's letter did not address the repeal of section 738. In April 2002, FAS officials told us they were reluctant to accept State's offer because it did not address the long-term budgetary effect of the sales and allowed State to retain control over the use of the sales proceeds.

According to State, if section 738 remained in effect, it could be a complicating factor in the future sale of a compound in downtown Bangkok that could be worth as much as $50 million. In 1998, the State Inspector General reported that the compound—a 15-acre wooded site located in a prime commercial area that contains five executive residences (one occupied by the agricultural attaché) and several other facilities—was underutilized and should be sold. Before the 1997 Asian financial crisis, State had planned to sell the compound and use the proceeds to finance the construction of new facilities at the post, including housing for more than 200 embassy families that would reduce post lease costs by about $73 million over 10 years. Recognizing the changed economic conditions, State reported that further study is needed to determine the appropriate time to sell the compound and the appropriate use of the sales proceeds.

State and OMB Support Repealing Section 738; FAS Opposes Its Repeal

State and OMB support legislation currently before the Congress that would repeal section 738. They argue that its restrictions on State's authority seriously weaken centralized management of overseas properties because they essentially establish a separate executive housing program for FAS and subordinate governmentwide priorities to agency priorities. For example, FAS could disapprove the sale of oversize or high-value residences purchased for agricultural attachés while State was selling residences purchased for ambassadors, deputy chiefs of mission, consuls general, and senior representatives of other foreign affairs agencies. State reported that, between 1997 and 2002, it sold 17 executive residences for about $38 million and is planning to sell 15 additional residences for about $20 million. Additionally, State and OMB pointed out that other foreign affairs agencies and Defense have experienced budgetary effects from the sale of such residences. In these cases, agencies must weigh housing costs in deciding whether to station their employees overseas. State and OMB are also concerned that unless section 738 is repealed, other agencies may seek similar legislation, leading to more fragmented property management and unequal and uneconomical housing policies at taxpayer expense.

FAS opposes repealing section 738. FAS argues that section 738 maintains Agriculture's entitlement to residences purchased to house its attachés. FAS believes that repealing section 738 would allow State to ignore what FAS believes was the Congress' intent in providing funds to purchase these residences, while imposing substantial budgetary costs on FAS.

CONCLUSIONS

Section 738's restrictions on the sales of residences purchased for agricultural attachés do not appear to be in the government's best interests. As the single manager for overseas property, State is responsible for implementing cost-effective decisions about the sale of unneeded overseas real estate and using sales proceeds for the government's highest priorities. However, for residences purchased to house agricultural attachés, implementation of State's decisions is contingent on FAS approval and priorities. Although its analysis shows that selling the Vienna and Cairo residences would be financially advantageous to the government, State does not plan to proceed with these sales if section 738 remains in force. We recognize that, if section 738 is repealed, selling these residences may affect FAS's budget. However, FAS's budgetary concerns need to be weighed against the government's overall benefits from these sales—which include disposing of unneeded property and reinvesting the proceeds where they provide the greatest return. In addition, the restrictions weaken efforts to improve management of the government's overseas properties and conflict with congressional and executive branch efforts to establish State as the single real property manager.

MATTER FOR CONGRESSIONAL CONSIDERATION

In light of our findings, Congress may wish to consider repealing section 738 of the fiscal year 2001 Agriculture Appropriations Act.

AGENCY COMMENTS AND OUR EVALUATION

State officials, commenting on a draft of this report, said the report fairly and accurately represents their positions on the negative effects of section 738 and the reasons they support its repeal. They said it is in the government's interest to have a single property manager with the authority to sell unneeded properties and reinvest the proceeds where they will produce the greatest benefits. State officials reiterated their concern that, by according FAS special treatment, section 738 threatens the centralized management of overseas property and is unfair to the staff of other foreign affairs agencies and Defense.

FAS official reiterated their concern that repealing section 738 could result in additional annual lease costs for FAS and that FAS would need additional budget resources to maintain its current level of services overseas, FAS officials also questioned whether section 738 would fragment overseas property management, stating that only Defense was in a position to assert similar claims to overseas housing.

We continue to believe that, in considering whether to repeal section 738, budgetary concerns need to be weighed against the government's interests in selling these residences and maintaining a single property manager with the authority to sell unneeded properties and reinvest the proceeds where they will produce the greatest benefits. If the section's repeal and subsequent property sales increase FAS costs, Agriculture can request that Congress consider providing more funds for FAS operations. Additionally, we agree with State that section 738 accords FAS preferential treatment and that other foreign affairs agencies and Defense will likely seek similar treatment for their overseas executives. We believe this would weaken centralized overseas property management, which we have long supported because it is more effective, efficient, and economical than an noncentralized approach.

SCOPE AND METHODOLOGY

To determine the effect of section 738 on State's management of overseas property, we analyzed applicable laws, regulations, and guidance that provide State's authority to sell properties and use the proceeds. Key laws, regulations, and guidance include the Foreign Buildings Act, section 738 of the fiscal year 2001 Agriculture Foreign Affairs Manual. We also examined past GAO and State Inspector General reports on overseas property management. We analyzed State and FAS records that summarized their assessment of the effect of section 738 on State's authority to buy and sell overseas properties and act as the single manager for overseas property. We discussed section 738's effect with appropriate State, FAS, and OMB officials. We examined State's rationale for selling the properties in Cairo, Vienna, and other locations, including State's financial analyses of the proposed sales, OMB guidance on evaluating asset sales, and State's fiscal year 2002 to 2007 long-range buildings plan. We did not access the accuracy or reliability of the property appraisals or other underlying data used in State's analyses or the priorities and objectives in its long-range plan.

We conducted this review from April to July 2002 in accordance with generally accepted government auditing standards.

We are sending copies of this report to other interested congressional committees, the Secretaries of Agriculture and State, the FAS Director, State's Director of Overseas Buildings Operations, OMB, and other interested parties. Copies will be made available to others on request. In addition, this report will be available at no charge on our Web site at http://www.gao.gov.

If you have questions about this report, please contact me at 202–512–4128 or by e-mail at fordj@gao,gov John Brummet, Michael Rohrback, Ed Kennedy, Richard Seldin, Janey Cohen, and Stephanie Robinson made major contributions to this report.

Sincerely yours,

JESS T. FORD,
Director, International Affairs and Trade.

Mr. MENENDEZ. Mr. Speaker, I rise in reluctant support of this important legislation. I say ''reluctant'', not because of what is in the bill, but because of what is not in the bill. This bill could have been a much better product, and it strongly underscores why the American people should think long and hard about which party should be in control of this great institution come November.

It is unconscionable that we are debating this bill today only because Speaker HASTERT and Majority Whip DELAY threatened to throw this entire bill in the waste can unless it excluded a non-binding, ''Sense of the Congress'' resolution stating merely that the United States should re-engage in the international effort to reduce the greenhouse gas emissions that have led to global warming. Were this to continue unabated, the consequences could be so dramatic that we can barely imagine them today.

The language that was forcibly removed by the Speaker and the Majority Whip already was passed by the full House. Its arbitrary removal by the anti-environmental House Republican leadership shows not only how radical things have gotten around here, but more importantly that they do not want the American people to know anything about their radical, anti-environmental agenda—certainly not with just over a month before the mid-term elections.

Second, the perennial underfunding of State Department operations had become a international embarrassment due to the short-sighted cuts forced by our friends on the other side of the aisle. Now we can say that some relief is on the way, although many Americans would be embarrassed to see the awful conditions of some of our diplomatic facilities

abroad. Let me remind the all too-eager hawks in the Majority and in the Administration that diplomacy is truly the first line of defense.

Second, I am glad to have joined with my colleague from Alabama, Mr. HILLIARD, the Congressional Black Caucus and the Asian-Pacific American Caucus, in developing language in this bill to ensure that the State Department makes progress in its recruitment and promotion of minorities to its senior-most ranks. Our language makes clear that Congress is looking for results in the recruitment and promotion of minority professionals. It provides $2 million to increase minority recruitment in the Department and requires the Department to track its results with a database.

The General Accounting Office (GAO) reported in a long-term study that despite years of effort from Congress, the State Department has failed to make any significant progress in the recruitment and promotion of qualified minorities to senior management positions. For example, the State Department—along with the Federal Emergency Management Agency—actually promoted fewer minority managers in 1999 than in 1990.

While having more minorities take the foreign service exam is a step in the right direction, that is but a small step, and only one among many more steps needed, to rectify the severe under-representation of qualified Hispanic Americans, African Americans and Asian-Pacific Americans in the foreign affairs agencies. All three caucuses join together to urge President Bush and Secretary of State Powell to ensure that we, at long last, get on with the business of obtaining results in minority recruitment and promotion at the State Department and the foreign affairs agencies.

If the State Department is to make progress, minorities must have a seat at the table. And that means, among other things, a seat at the table at the promotion boards and the selection boards—the entities that placed officers in senior positions. We will look for results and we will continue with these efforts until we see results.

Third, this bill includes the ''Iran Nuclear Non-Proliferation Act'', a bill I first introduced in 1998, and whose passage could not be more timely than today. In response to Iran's efforts to develop the Bushehr nuclear power plant in the Persian Gulf, the language I introduced requires the U.S. to withhold proportional assistance to the International Atomic Energy Agency (IAEA) for programs and projects of the Agency that go toward the development of the Bushehr plant if the Secretary of State were to determine that it is inconsistent with US nonproliferation policy, helps Iran develop nuclear weapons expertise, or is a cover of acquisition of sensitive technology. We must keep a watchful eye on IAEA activities in Iran—one of the nations that President Bush singled out as part of the ''axis of evil'' that threatens our way of life. While I have no interest in cutting off all IAEA assistance to Iran, it is ludicrous for the U.S. to support—even indirectly—a plant which clearly poses a threat to the United States and to stability in the Middle East.

Finally, this bill provides language I was glad to sponsor to provide the National Endowment for Democracy (NED) with a modest increase for the first time in years. This vital and cost-effective organization promotes the fundamental American values of democracy and human rights abroad. By leading many efforts in the struggle for freedom worldwide, NED enjoys strong bipartisan support as it advances our national security. From Lech Walesa in Poland to Nelson Mandela in South Africa to human rights activists in Nigeria to civil society leaders in Mexico, NED and it core institutes have assisted grassroots organizations that have helped bring about peaceful transitions to democracy.

Mr. Speaker, despite the outrage committed by the majority on global warming, for the reasons I have mentioned, I urge my colleagues to support this bill.

Mr. ACKERMAN. Mr. Speaker, I rise today in support of the conference report to accompany H.R. 1646, the Foreign Relations Authorization Act.

Mr. Speaker, at the outset, I want to commend Chairman HYDE and Ranking Member LANTOS for their diligent efforts in producing a bill which will truly assist in the conduct of our foreign affairs.

There are a few specific provisions in the conference agreement which I would like to draw attention to. The first is the Middle East Peace Commitments Act. This section requires the President to report to Congress on the Palestinians adherence to their commitments to resolve their conflict with Israel through exclusively non-violent means. If the President cannot report to Congress that the Palestinians are complying with their commitments to peace, and unless the President utilizes a national security waiver, the legislation requires the imposition of one or more of following sanctions: the denial of visas to PLO and Palestinian Authority officials; the downgrading of the status of the PLO office in Washington; the designation of the PLO, the PA, or any of their constituent groups or arms as Foreign Terrorist Organizations; or the cutoff of all non-humanitarian aid to the West Bank and Gaza.

Mr. Speaker, the problem with the U.S. policy to date isn't that we're disengaged—far from it. The problem is that for all our effort, we haven't gotten any commitment to peace from the Palestinians. It doesn't seem to matter how many envoys and senior policy makers the President sends to meet with Palestinian leaders, these visits have failed to produce any change in Palestinian behavior. With the adoption of these sanctions, Congress is sending a strong message to the Palestinians that America's never-ending supply of last-chances has run out.

Another important provision in the conference report concerns Taiwan. Last year, President Bush altered arms sales discussions between the U.S. and Taiwan from once a year to an as needed basis. The experience with this policy has thus far been satisfactory and has removed a major irritant in U.S.-PRC relations by removing the focus an annual meeting between the U.S. and Taiwan provides. However, in order to ensure Congress's historic role in assessing Taiwan's defense needs under the Taiwan Relations Act, the bill requires that the Administration consult with the Congress twice annually regarding Taiwan's defense needs. This provision will ensure that the Congress retains its unique role in determining the types and quantity of defense articles and services that should be provided to Taiwan.

Lastly, Mr. Speaker, the conference report authorizes the final payment of our U.N. arrearage. For too long the late payment of our dues has set an example for other nations to follow and has caused serious budget problems for the U.N. At a time when the President has challenged the United Nations to be a forceful advocate for peace and security, or risk irrelevance, it helps for us to demonstrate that we support the U.N. by putting our money where our mouth is.

Mr. Speaker, I commend Chairman HYDE and Ranking Member LANTOS for their extraordinary work on this measure and I urge my colleagues to support the conference report.

Mr. GILMAN. Mr. Speaker, Section 1601 of the State Department Authorization Conference Agreement addresses nuclear missile nonproliferation in South Asia. I have reservations about the provision. U.S.—India relations are strong and both countries are looking forward to an enhancement and expansion of their economic, political and strategic potential. The engagement between our two nations continues to be mutually beneficial. In light of this tangible bilateral progress being made, and India's long-standing commitment to regional and global peace and security, provisions of Section 601 create an unnecessary diversion in the steadily strengthening bilateral relationship between the U.S. and India.

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

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

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING THE CLERK OF THE HOUSE TO MAKE TECHNICAL CORRECTIONS IN THE ENROLLMENT OF H.R. 1646, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. HYDE. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 483) directing the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 1648, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the current resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 483

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal

year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes, the Clerk of the House of Representatives shall insert at the appropriate place the following new section (and conform the table of contents accordingly):

SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION STRATEGY.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

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

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1545

PROVIDING FOR CONSIDERATION OF H. RES. 540, EXPRESSING SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002; H. RES. 544, EXPRESSING SENSE OF HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS; AND H. RES. 543, EXPRESSING SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 4019, MAKING MARRIAGE TAX RELIEF PERMANENT

Mr. SESSIONS. By direction of the Committee on Rules, I call up House Resolution 547 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 547

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided among and controlled by the chairmen and ranking minority members of the Committees on Education and the Workforce and Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

Sec. 2. Upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

Sec. 3. Upon the adoption of this resolution it shall be in order to consider in the House the resolution (H. Res. 543) expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent. The resolution shall be considered as read for amendment. The resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The previous question shall be considered as ordered on the resolution to final adoption without intervening motion.

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, the resolution before us is a closed rule that allows for consideration of three important resolutions. The rule provides for 1 hour of debate, equally divided among and controlled by the respective chairmen and ranking members of the committees of jurisdiction.

Mr. Speaker, the trio of resolutions before us today represents some of the most pressing needs for average Americans across the Nation. In politics, we often try to put a personal face to a problem that is being debated or addressed. Mr. Speaker, the face of our story today is just the average American, the average American who is a family member, a friend, a neighbor. It is a person who has worked hard and tried to invest wisely so that he or she can enjoy a retirement of independence.

The first of these resolutions, House Resolution 540, expresses the sense of the House that Congress should complete action on and present to the President before adjournment the Pension Security Act of 2002.

Although the House passed this measure more than 150 days ago by a strong bipartisan vote, the Senate has not taken up comprehensive pension protection that includes safeguards and options to help American workers preserve and enhance their retirement security.

Over the last year, we have witnessed the unraveling and breakdown of major corporations such as Enron. While Enron workers were likely victims of criminal wrongdoing, there is no question that they were most definitely the victims of outdated Federal pension laws.

The tragedy of Enron was two-fold. In addition to decimating the savings of employees, it has also undermined the confidence of American workers in this country's pension system.

The Pension Security Act includes new options and resources for workers, as well as greater accountability from companies and senior-level executives. Employees would be given new freedoms to sell and diversify company stock. The bill also creates parity between senior corporate executives and rank-and-file workers. This will help to prevent a repeat occurrence of the egregious disparity that allowed Enron executives to sell their investments and preserve their savings while rank-and-file workers were barred from making changes.

The bill also includes provisions that would ensure that employees receive accurate and timely information, along with sound advice and resources to make informed investment decisions. Mr. Speaker, let me be very clear about this: each day that we delay in enacting the Pension Security Act is another day that we leave worker retirement savings vulnerable to corporate meltdowns.

The second resolution we will consider is House Resolution 544, which expresses the sense of the House that Congress should complete work on the Retirement Savings Security Act of 2002. The tax relief package that was enacted last year included provisions that increased contribution limits for IRA and 401(k)-type plans to make it easier for companies, and particularly small businesses, to offer a retirement savings plan.

Currently, half of the Nation's workforce, roughly 70 million Americans, do not have a 401(k) plan or any other kind of pension. At the same time, much of the workforce is quickly approaching retirement. The provision enacted last year addressing this growing concern by allowing all workers to set aside more in their own retirement and IRA plans was important. I am proud of what this House did. Special considerations were also given to workers over 50 years old who were allowed to so-called ''catch up'' or accelerate contributions so that they can build up their retirement nest egg more quickly.

One group that will be particularly helped by this is women, women who come to work many times after raising their children, many times later in life.

This tax relief package also included provisions that modernize pension laws. Workers are now able to enjoy the benefits that come from having a portable defined contribution plan and are also allowed to vest in their plans more quickly.

So one might ask: What is the problem? The problem, Mr. Speaker, is that all of these very good benefits enjoyed by the American worker are set to expire on December 31, 2010, because of an arcane Senate rule. Consequently, Americans will have a difficult time planning for the future.

In order to prevent a massive overnight tax increase, this past June the

House passed a bill that would make these provisions permanent on a strongly bipartisan vote of 308 to 70. The American worker is calling for these reforms to be made permanent, and the President is ready and willing to sign these significant retirement security provisions. We just need to go through the legislative process that involves both parties here in the Capitol. This measure, too, has also not been taken up by the other body.

The last resolution addresses similarly important tax relief that is put in jeopardy by the aforementioned Senate rule. House Resolution 543 is a measure expressing the sense of the House that Congress should complete action on H.R. 4019, making marriage tax relief permanent.

Because of the Senate rule, the provisions that give relief to married couples from an additional tax burden are set to expire at the end of the year 2010. The Senate has not acted on making marriage tax relief permanent. Without enacting a law making marriage tax relief permanent at the start of the year 2011, the nearly 36 million couples in the Nation would be subject once again to this fundamentally unfair tax solely because they are married. If this provision is not made permanent, married couples across America will once again be subject to this unfair tax that is an affront to the most basic institution of marriage.

The Committee on Ways and Means report also notes that ''failure to make permanent marriage penalty tax relief would result in a $17 billion tax increase for low- and middle-income married taxpayers in the year 2011, followed by a $25 billion tax increase in the year 2012.''

Mr. Speaker, I look forward to debate on these three resolutions, which give the House the opportunity to once again reaffirm its commitment to the American workers and their families.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. As the Chair most recently ruled on September 19, 2002, Members are reminded to confine their remarks to factual references to the other body and avoid characterizations of Senate rules, Senate action or inaction, remarks urging Senate action or inaction, or references to particular Senators.

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

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

Mr. FROST. Mr. Speaker, this rule and the three meaningless sense of the House resolutions it will bring to the floor represent a complete abdication of leadership by House Republicans.

On the front page of today's New York Times, the Census Bureau reports that the number of people living in poverty has increased, the median household income has decreased, and Americans are suffering under the weakest economy in 50 years. But congressional Republicans are fiddling about, cynically playing politics in order to run out the clock before the November elections.

The majority leadership should be ashamed of itself, Mr. Speaker. Republicans refuse to do the most basic job that they were elected to do: fund the Federal Government. House Republicans have passed only five of the 13 appropriation bills, and the fiscal year ends in less than 1 week.

Later today, or perhaps tomorrow, or perhaps some day next week, we will pass the first of several continuing resolutions to keep the government operating. But instead of working overtime to do their most fundamental job, Republican leaders are worried about their own political power, so they are wasting time on the meaningless bipartisan propaganda that these resolutions represent.

Never have I seen such timidity, timidity from the Republican leadership. Meanwhile, long-term unemployment is at an 8 percent high, and 2 million Americans have lost their jobs. Consumer confidence is at its lowest level since November of 2001, and prescription drug prices are still sky high, leaving senior citizens unable to afford vital prescription medicine.

Mr. Speaker, corporate scandals, the massive criminality at Enron, WorldCom, and the like have rocked the economy and devastated retirement plans of millions of Americans; but House Republicans overwhelmingly voted against real pension protection legislation a few months ago, blocking Democratic efforts to protect Americans' retirement plans.

Just yesterday, the Dow hit a 4-year low. The NASDAQ is at a 6-year low. Overall, the stock market has lost $4.5 trillion in value since Republicans took control in Washington a year ago January.

How have Republicans responded, Mr. Speaker? Last week they wasted the taxpayers' time and money on two utterly meaningless resolutions. This week they are doing it again, issuing a rule that brings three more utterly meaningless resolutions to the House floor, since we have already passed these bills that are the subject of these resolutions.

Mr. Speaker, in case anyone has any doubt as to the substantive significance of the resolutions on the floor today, let me tell the Members how we got here. Originally, Republicans had one meaningless resolution on the schedule for today. Apparently, however, that would not waste enough time, so in the middle of the Committee on Rules meeting yesterday evening, Republicans happened to mention that they were going to add two more meaningless resolutions. Then they told us that they had to adjourn the committee until the new resolutions had been written.

Mr. Speaker, this is a shameful failure to lead. It demonstrates an embarrassing intellectual bankruptcy on the part of the Republican Party. They have given up on addressing the real priorities of the American people and turned the House floor into a propaganda arm of the Republican National Committee.

In closing, Mr. Speaker, I pose a simple question to my Republican colleagues: Are they afraid to do the job their constituents elected them to do? If not, I urge them to join Democrats in opposing the previous question.

If we defeat the previous question, we will amend the rule to bring to the floor real corporate accountability legislation offered by the gentleman from California (Mr. MATSUI), the ranking member of the Subcommittee on Social Security. The Matsui measure would ensure that big corporations treat their employees the same way they treat their favorite executives: if the CEO gets a guaranteed pension, then so should the front line employees; if the company restricts employees who want to change their 401(k) plans, then it should restrict CEOs who want to cash in their stock options.

The Matsui bill embodies the values that President Bush set forth months ago. If it is good enough for the captain, it is good enough for the crew.

I urge my Republican friends to join us in defeating the previous question so this House can finally address the corporate scams that have hurt so many employees and investors.

By the way, it might be nice if the Republicans would also bring the eight appropriation bills that are still languishing in committee to the floor. They have utterly failed to do the job that they were sent here to do.

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

□ 1600

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), a member of the Committee on Education and the Workforce.

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

Mr. Speaker, over the last year thousands of Americans employed by Enron, WorldCom, Adelphia and others have watched helplessly as their companies collapsed and their retirement savings evaporated. In response, President Bush called on Congress to act in a bipartisan fashion to restore confidence in our Nation's pension and retirement security system, and I am not ashamed to say more than 150 days ago the House did its part by passing a comprehensive pension protection bill that protects workers from losing their retirement savings in Enron-style corporate meltdowns.

The House passed the Pension Security Act to protect workers' retirements by stopping harmful inside trader moves. It gives workers new freedoms to diversify their retirement savings in 3 years and allows workers to

receive sound investment advice about their retirement plans. American workers deserve no less than this from Congress. And also we need to support a 401(k) continuation and permanent renewal of the marriage penalty. The Senate has not passed any protection bill; and by supporting this bill rule, you are standing up for American workers.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. MATSUI).

Mr. MATSUI. Mr. Speaker, I thank the gentleman from the State of Texas (Mr. FROST), the ranking member on the Committee on Rules.

Mr. Speaker, what we are really doing here today is passing three resolutions that the gentleman from Texas (Mr. FROST) said were absolutely meaningless, and I would have to say that they are probably less than absolutely meaningless.

The first resolution deals with a bill that was passed some months ago basically asking that the Senate act on it. Now, the way I would do this is you just go walk over to the Senate side, which takes about 5 minutes, and just suggest that perhaps they bring the bill up, and if they will not bring the bill up ask them why and then you will find out why because the bill that passed the House is somewhat meaningless.

The same thing on the second resolution. You want to make something permanent that will not take effect until 8 years from now. And so why talk about asking the Senate to take this bill up now when we are talking about something 8 years from now? We do not even know how this bill will work.

The last one is on the marriage penalty, again doing something that will take 8 years from now. What is odd is that we should really be addressing the shortfall on Social Security, but because the Republicans want to privatize Social Security, they want to wait until after the elections because they know they are getting really torpedoed on this. They do not want to talk about Social Security. They have a prescription drug proposal that will privatize Medicare and, obviously, that cannot pass the other body because it is so extreme that that is not going to happen.

You can go on and on and on. One of reasons the appropriations bills are not being brought up is even though the President had a wonderful Rose Garden ceremony, signing ceremony, on the education bill, Leave No Children Behind, he falls $7 billion short in actually funding that bill, which would make it impossible to implement it and create chaos in every school district in America.

So we know what is happening. We know why we are spending hours of time on this floor of this body talking about resolutions. The easiest thing in the world, as I said, is just go on the other side. Talk to these people on the other side. Do not send resolutions and waste their time.

What is really offensive is let us take the first piece of legislation that we are talking about, the first resolution. I will tell you how meaningless it is. They have basically two parts of this bill: The Boehner-Thomas bill which is supposed to really address the Enron pension problems. The first one basically says that no employee can actually sell company stock for 3 to 5 years from the date of receipt. Now, that does not mean anything from the top level management employees; the executives like Ken Lay could still sell any time they want. They get a stock option. So this does not really help the employees of these companies.

The second part of it is even more silly when you think about it. The gentleman from Texas (Mr. FROST) talked about investment advice. The only trouble is the investment advice will come from the same people that are administering the program. So you take Enron, it would have been the Enron pension managers that would have been giving investment advice to the Enron employees. Now, what do you think they are going to say? Do not buy Enron stock? Of course not. It is silly.

But you say, we do have a provision that you have to disclose a conflict of interest. Sure, that is a lot of help. That is what this bill does. It is somewhat meaningless. That is why the other body has a rough time wanting to take this up.

The bill I would like to offer and the bill we really should be debating, you can vote against it, but let us bring it to the floor so that the American public will know our values, what we stand for, exactly who does want to solve those problems. What our bill will do is basically, let us take, for example, the whole issue of diversification, the first issue about Enron employees having in their 401(k) plans Enron stock. Essentially what we would provide is that the executive employees like Ken Lay and Skilling and those folks would not be able to sell their stocks if in fact there are impediments to the employees having to sell their stocks. And if they do sell their stocks and breach the general company-wide prohibition in terms of time limits, they would just have to pay a capital gains tax that is larger than the capital gains tax they will pay now. They will have to pay a 50 percent capital gains tax. That should be a disincentive then for them to sell these stocks or at least perhaps open it up so their employees can sell their stocks.

Secondly, we all know what has been going on, and finally I think the Jack Welch situation became public knowledge about a month ago. A lot of retired top executives and CEOs get millions and millions of dollars of perks. Not only do they get wonderful pension programs, but they also get tickets free to sporting games on the front row. They get apartment complexes. They get their cleaning paid for. They get a corporate jet that is waiting for them. Millions of dollars worth of funds.

We know that they get these big benefits and we are not going to stop that. They are going to get them. But what we want is transparency. One of the reasons the market is falling apart, it was 11,700 when the President took office, and now it is down to 7,700. It lost 4,000 points in the last 2 years since President Bush has been President, about a 40 percent reduction in pension benefits.

The reason why there is no confidence in the stock market today is because there is no transparency, because the shareholders do not know what is actually being expensed. The shareholders of GE did not know that Jack Welch was actually spending millions and millions of dollars of monies that could have gone in the form of stock dividends. All we would do is just provide that when you give these benefits and perks to these top management people, that you notify the shareholders in writing. And then you allow the shareholders to vote as to whether or not they agree with it; and if they do not, these perks are not available. Very simple.

Why would anybody be opposed to that? You want transparency, you want fairness, and you want the shareholders to have their benefits. We cannot bring this bill on the floor because you, Republican leadership, will not allow us to. The American public needs to know that. Why should we not be allowed to do that?

Lastly, the whole issue of deferred compensation. Ken Lay did really well. After bankruptcy was filed, he was able to take millions of dollars in deferred compensation. You know why he was able to do it? Because he put it in a third party trust that was nontaxable to him; nontaxable trust monies of Enron money went into a third party trust. And when they filed bankruptcy, every employee of Enron corporation lost their 401(k)s and went from $100,000 to zero or whatever they had went down to zero. It was suffering, what these people went through. Ken Lay walked off with it. You know why? Because we have a provision in the Tax Code that needs to be changed because it allows a deferral of taxes, and at the same time with the third party trust he was able to take literally millions of dollars from his account.

We need a no vote on the motion on the previous question so we are able to bring up our legislation that will deal with these major points so the American public and the shareholders will understand exactly what is going on in corporate America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Members are reminded to avoid improper references to the Senate.

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

Mr. Speaker, today we were furthering this debate that we have had

for quite some time. I completely understand where the Democrats are coming from. They completely understand where we are coming from. We would like an agenda that is going to help taxpayers. We want an agenda that will help investors. We want an agenda that will help this country to come back from the problems that it has had. But the bottom line is the consensus that these bills have represented, including just one of these bills, got 308 votes. It is a consensus about doing something that will work.

I understand how difficult it is to beat up the status quo, just beat it up. But the answers that the other side has, just like when they present their budget, it does not even come close to passing. The measures that they have time after time do not come close. But the provisions that we have put on the floor have virtually bipartisan agreement with over 308 people who vote for it.

These are the ideas that we bring back to the floor today. The ones that have received over 300 votes of this body, the votes that make a difference, the ideas that make sense. It is easy beating up these ideas. I understand that. I also understand a lot of the frustration that they have got. But now is the time for us to make sure that we are pushing these. These three provisions are important. Yes, it is true. Two of them simply make permanent the things at the end of 10 years that we passed in the past few years. But I believe they are very important and I believe they represent more than a consensus of this body. And that is why it makes sense that what we passed previously, that we will debate again.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS) for yielding me time; and I am pleased to talk about today the substance of some of the legislation before us.

The rule permits us to take up three bills. My understanding is today we will address two of them. They have just been mischaracterized in my view by my colleague from the other side of the aisle, and I just want to relate what they actually contain.

The first is H.R. 3762. This is the pension security bill. It passed the House with a vote of 255 to 163 with 46 Democrats supporting it. It does have a controversial amendment with regard to independent investment advice, but to say that it does nothing, which my colleague and friend from California (Mr. MATSUI) said earlier, is not accurate. Let me tell you just what it does.

It says to people who are currently in company plans who have 401(k)s, who get a match of stock from their employer, that they do not have to be in that stock for an unlimited period of time. Under current law if an employer wants to they can give a match under a 401(k) program and say, you can have that stock but you have got to keep it, and you can never get rid of it, because there is no current rule which says that employees, the workers, have the right to unload that stock. That is a bad situation.

What happened at Enron is they told people they had to be 50 years of age plus they have to have 10 years of service. So people literally got hold of that Enron stock and they did not have the ability to get it out of their retirement plan. That is current law. Enron could have said 65 instead of 50. They could have said 20 years of service. They chose 50 and 10.

So what this House did on a bipartisan basis is we said, Let us change these rules. Let us say that as soon as you are vested, and vesting is after 3 years of service, that is the current vesting rule. We moved it from 5 years down to 3 years in the Portman-Cardin legislation a couple years ago. As soon as someone is vested after 3 years, you can get rid of that stock. You can divest yourself of that corporate stock that that company has given you as a match. That is a huge difference. And to say that does nothing I think not only mischaracterizes the bill, but I think that is really unfair to the workers of America who want to have that flexibility. They want to have the choice. If they want to keep that stock, fine, they should be able to. But they should also have the choice to get out of it. And a lot of folks at Enron would have gotten out of it. So that is a big change from current law.

It is not something, frankly, the business community was wild about because they like the idea of giving corporate stock and tying people to that stock because they think that gives people more of a stake in that company. It enables them to have that stock be held. But we looked at it. We said it was fair. We decided to do it. The gentleman from Maryland (Mr. CARDIN) and I worked on that. The gentleman from North Dakota (Mr. POMEROY) and I worked on that and others. So to say it does nothing is just inaccurate.

Second, it provides better information to workers. That is something we agreed to on a bipartisan basis. It was not a controversial part of the bill. It does provide a lot more information and better information. For instance, now when somebody gets into a plan they have to be provided with advice that says diversify. Do not put all your eggs in one basket. A commonly accepted principle for retirement is you should not have all your eggs in one basket. People now have to be told that when they get into a plan. They also have to be told, not only when they get into it but on a quarterly basis, what that plan is doing.

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That was not a requirement before this legislation. If we could get this out of the Senate, people would actually get quarterly statements telling them what is in their plan, what they have, how the plan is doing in plain English so they can actually have the kind of transparency that the gentleman from California (Mr. MATSUI) talked about, and I could not agree with him more. Transparency is absolutely critical.

Finally, education. Choice and information are important, but we also need to give people more tools to be able to educate themselves about how to invest their retirement savings. I think there is a consensus on doing that. There is some controversy about one element here, but it is extremely important.

There are two provisions in the bill. One says that one should be able on a pretax basis to go out and get advice wherever one wants, up to 500 bucks. Just like one can get a pretax cafeteria plan for eyeglass coverage or some other benefit, one can get investment advice. Investment advice is not cheap. So it is important that people have the ability to go out to get that advice. That is something that the gentleman from Maryland (Mr. CARDIN) and I have put together in previous legislation; it is something this House passed.

Finally, it says that companies ought to be able to allow people to come into the company and provide advice to the employees. The employer has the option to do that under this bill. It is voluntary. If the person comes forward to offer advice, the person has to disclose whatever that person is doing including being involved in a company plan, if they are. It is subject to all fiduciary responsibilities that come with that. It has to be a certified individual. So their protection is in there, but the point is there are millions of American workers today, over 42 million of them are in 401(k)s and a lot of them are getting no advice at all. In fact, 65 percent of those workers tell us they want to get education. So this is what this bill does. It is pretty simple. It says people ought to have choice. They do not have it now. And until the Senate acts, they will not have it. They ought to have better information about their plan. They ought to have better education.

A couple of other really good provisions of the bill have already been passed in the corporate accountability bill. That dealt with the blackout period. Do my colleagues remember that issue with the Enron situation because they were changing plan administrators, there was a blackout where people could not sell their stock and yet the people at the top could and there was no notice of the blackout? This House passed legislation that is part of this bill that says 30-day notice, they have to tell people about a blackout and during the blackout, the corporate executives who are not even in the plan but have stock separately cannot sell their stock. What is good for the sailor is also good for the ship captain. That was that idea and that did pass as part of the corporate accountability bill,

but it came out of this House and out of this legislation.

So what we are doing today may seem meaningless to some, but I think it is very important because it is important to the workers of America. It is to say to the United States Senate, look, we passed this thing back in April. We responded on a bipartisan basis in the House. It is time now for the United States Senate to help America's workers. Enough talk. We have got a bipartisan consensus on which way to go. We ought to get it done.

The second piece of legislation has to do with enabling people to put more in their retirement accounts, enable them to move their accounts from job to job, portability, and simplifying the rules for small business so that they can offer more accounts. We know for a fact that of the 75 million people in America who do not have any retirement savings plan at all, 75 million people are left out right now. Most of them work in small business. In fact, among small businesses, only 20 percent offer any kind of plan like a 401(k) or a similar plan. So this House, on a 308 to 70 vote and in the past on a 400 vote, passed this legislation.

And what we are saying here is we ought to now make that legislation permanent. It lets everybody save more for their retirement. It is good policy. It is already working. IRA contributions are up 25 percent this past year, and thank goodness, because some of that money is accounted for now and able to balance some of what is happening in the markets so that people have a little more retirement savings. So it is out there working. It is good policy.

Why do we think it ought to be made permanent? Because although it does not expire for 8 years, it is very difficult to plan. Most Americans are trying to plan for their retirement. They want to know that this thing is not going to expire in 8 years, which it does under the current legislation. Small businesses would like to plan. If someone is thinking about getting into a pension plan for the first time if they are one of those 80 percent of small businesses, Mom and Pop operations, and they are sort of scared about the cost and the burden of liabilities to this, we reduce some of these for them here but they are saying, gee, how do we know that if we get into this business we are not going to get knocked out of it in 8 years? We ought to make it permanent.

I hope this is something this House would agree on. We already had a vote on that in this House. All we are saying to the Senate is, please, instead of talking about this so much, let us do something. We have the ability to do something. We have a consensus on how to help every worker have a more secure retirement.

There may be other things that people would like to add. The gentleman from California (Mr. MATSUI) has talked about executive compensation. Those are important issues. We ought to address those issues. It will not help one person get a pension, I can tell you that. So let us focus on what we are about here, which is helping workers to be able to have a little nest egg for their retirement, have a little peace of mind so that when they retire, they have something to be able to use for their own retirement and pass along to their kids and grandkids. That is what we are doing today. It is very simple. I appreciate the time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DAN MILLER of Florida). Members are reminded to avoid improper references to Senators.

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

I was listening to my colleague, the gentleman from Texas, a while ago; and he was talking about why we need to be voting on this today, and I think he is a little confused. I do not know, maybe he was sick the day they did the legislative process during freshman orientation. I do not know. But it sounded like he was talking about voting on a conference report. We do not have a conference report before us. We have a bill that has already passed the House, has not been taken up by the Senate. So it is meaningless to vote a second time on the same bill that has already passed the House when it has not been passed by the Senate, has not gone to conference, and has not come back to us. So this really is an extraordinary waste of everybody's time, the minority's time, the majority's time, and the taxpayers' time and money.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me this time.

Mr. Speaker, I strongly support worker protection in the pension laws, but today is another wasted opportunity, another loss of an opportunity to do something positive in that direction. I strongly disagree with the partisan strategies of my Republican colleagues. We need Congress to act on pension protection. It has been a pleasure to work with the gentleman from Ohio (Mr. PORTMAN) on many of these pension issues. Yes, employees should have control over their assets in the 401(k) plan.

Yes, we need to give them advice on diversification and independent advice; and yes, we have to give them notice of blackout periods. All that is very important, but this rule, as the gentleman from Texas (Mr. FROST) has pointed out, if it passes, will allow us to consider on this floor three meaningless resolutions. They do not even reenact what we did before. These are basically political statements more than action on the floor of this body.

Instead, we could have done something here today to make it more likely we would send legislation to the President accomplishing what we are talking about today. We still have that opportunity. If we defeat the previous question, then we will be able to bring forward an issue that is extremely important to the workers of this Nation, will help bring us closer to the other body and more likely that we will get legislation enacted this year.

Mr. Speaker, I refer to the fact that under current pension law, there is preferential treatment for top management over the rank-and-file workers of a defunct company. No one can justify that. If a company cannot pay its workers, if a company cannot pay its creditors, it should not be paying these lucrative agreements to its top management, the deferred compensations and the unqualified pension plans that allow these payments to continue even though the company is in bankruptcy; and that is what the gentleman from California (Mr. MATSUI) is referring to. That is what we will be able to consider in this body if we defeat the previous question; and if we do that, we will not only be enacting the right policy, treating workers equally with top management and protecting their pension rights, but we also will make it more likely that we can get legislation enacted this year.

I urge my colleagues to listen to this debate. Why we continue to take up these resolutions that do absolutely nothing is beyond me. These are important issues. We all want to help workers. So why can we not use the time that is obviously available to us to do the work we have not done yet? We have not taken up the issue of protecting the rank and file versus the top management. Let us take that issue up during this time.

I urge my colleagues to defeat the previous question.

Mr. SESSIONS. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. WELLER), the sponsor of the Marriage Penalty Relief Act.

Mr. WELLER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

I rise in strong support of the rule. I urge a ''yes'' vote on the previous question because this is a pretty simple debate before us today. We are debating bringing up a measure that says we need to get our work done on making elimination of the marriage tax penalty permanent; and before I discuss this marriage tax penalty, I do want to commend my friend, the gentleman from Ohio (Mr. PORTMAN), and the gentleman from Ohio (Mr. BOEHNER) for their good work on the pension legislation that is also part of this rule debate, particularly for the inclusion of the 415 pension provisions which benefit over 10 million construction and building trades people across America.

Thankfully, President Bush had the leadership to sign that legislation into law; and unfortunately, it was a temporary measure, and just imagine what it would mean to working folks back home in our districts if the rug were pulled out from them if that provision

were allowed to expire, what it means for a laborer in my district like Larry Core. That 415 provision means a doubling of his pension by removing those artificial caps that denied him the full pension that he earned and deserved.

I have often, like many of my colleagues, come to the floor and asked the very fair and basic issue of fairness, and that is, is it right, is it fair that under our Tax Code almost 42 million married working couples have suffered higher taxes historically just because they are married? It does not seem right, and it does not seem fair; but the average marriage tax penalty would be about $1,700.

Thankfully, this House, along with the Senate, and we obtained bipartisan support, succeeded in passing as part of the Bush tax cut legislation to eliminate the marriage tax penalty, helping 42 million married working couples, couples such as Jose and Magdalena Castillo, two laborers, two construction workers from Joliet, Illinois. They have a son and daughter, Eduardo and Carolina. They are good people. They work hard. They are pursuing the American dream, but they suffered the marriage tax penalty prior to President Bush signing the Bush tax cut into law.

Unfortunately, the Bush tax cut is temporary. It expires in a few years, so what that means for a couple such as Jose and Magdalena Castillo, who right now have the marriage tax penalty essentially eliminated, is they could end up paying in a few years about $1,700 more in higher taxes just because they are married; and I believe that there is bipartisan agreement in this House that it is wrong that a married couple who are both in the workforce, man and wife, should pay higher taxes. We saw that we had almost 60 Democrats join with every House Republican that rejected their leadership's call, and they voted with us in eliminating that marriage tax penalty.

We have before us today a rule which will allow us to bring up this coming week a measure which will say that we want to complete before the end of this year, making permanent the elimination of the marriage tax penalty, and this House has passed legislation to make permanent the elimination of the marriage tax penalty; and I would note that the Senate has not taken up permanency when it comes to eliminating the marriage tax penalty legislation that the House passed months ago. I think it is important that we make this a bipartisan priority.

We have that opportunity today, because think about it, for Jose and Magdalena Castillo of Joliet, Illinois, two hardworking people who have suffered the marriage tax penalty, just like 42 million American working couples, unless we make permanent the elimination of the marriage tax penalty, they are going to once again suffer higher taxes just because they are married.

We have a simple vote before us. We are voting on a rule. It is a procedural thing that we have to do, but this rule will allow us to debate the need to finish our job on eliminating the marriage tax penalty permanently; and, again, I would note that this House passed, and the votes of every House Republican and about 60 Democrats joined with us in a bipartisan effort, to eliminate the marriage tax penalty. I urge a ''yes'' vote on the rule and a ''yes'' vote on the previous question.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding me the time.

Today, Mr. Speaker, we are considering more resolutions without meaning. What was great about the Seinfeld show, a show about nothing, is not so funny here in Congress when we debate bills about nothing. These empty resolutions seek to divert attention of the American voters from the Republican leadership's mediocre attempt at pension and corporate reforms.

What we should be debating today is actual legislation that deals with the important issues of pension reform and corporate accountability. My colleagues may recall, Mr. Speaker, that the first economic stimulus bill that the leadership pushed through this House, and my friend from Ohio made reference to Ma and Pa businesses they want to help, would have given $254 million with repeal of the corporate alternative minimum tax to Ma and Pa Enron.

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Well, in the wake of Enron's spectacular demise, this House has done little to help those who were financially devastated as shareholders and workers. Pension security deserves serious debate. Establishing parity between corporate executives and rank-and-file employees regarding the buying and selling of stock is simply the right thing to do. It is imperative to strengthening the integrity and public trust in corporate America. Congress has that opportunity if we would just get to it.

President Bush, a former corporate executive himself, said, ''If it is okay for the captain, it ought to be okay for the sailor.'' Instead of debating senseless senses of the House, we should correct this system that unfortunately allowed hardworking Americans, the backbone of corporate America, to lose their retirement savings.

What we are continuing to allow by wasting our time on these resolutions is abusive corporate perks. Let us start with our friends at GE, the quintessential corporate manager who was receiving exorbitant perks at shareholders' expense and most importantly, without shareholder approval. I call Members' attention to the enviable list of perks ranging from big-ticket items to minutia, from a $15 million Manhattan apartment, to corporate jets, to membership fees at four country clubs, to sports tickets, and even expensive toiletries. It is interesting why a man whose wealth has been estimated at $900 million would feel it necessary to have the shareholders of GE pay for his laundry service.

How about the ousted CEO of Tyco, formerly of New Hampshire and now of Bermuda. Without shareholder approval, the company paid for a bizarre set of perks, including $2 million on a birthday party for his wife, $15,000 for a dog umbrella stand, and how about $445 for a pin cushion.

The CEO of Adelphia, he used company funds to construct a $13 million golf course on family property. The holidays must have been very good there.

These extravagances reflect a corporate culture gone awry. Warren Buffet summed it up best when he said, ''The ratcheting up of compensation has become obscene.'' But rather than taking up legislation to prevent or discourage such financial abuse of shareholders and investors, we debate resolutions about nothing.

Mr. Speaker, I want to join the gentleman from California (Mr. MATSUI) in urging this House to take up his legislation which would bring some sanity into the corporate compensation process. We need better protections for our investors, shareholders and workers. How can anybody look at those shareholders and employees at Enron and justify what happened to them?

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

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

Mr. Speaker, the gentleman from Texas (Mr. FROST) said this is a meaningless resolution. I beg to differ with the gentleman; I think this resolution is very meaningful because it shows that the majority in the face of real economic stress and pain in our country is more interested in positioning for the election that is coming in 6 weeks than it is in solving the country's problems.

Since the beginning of 2001, 2 million people have gone on the unemployment rolls. In the last 12 months, 1 million people have exhausted their economic unemployment benefits, have seen them run out. Since the beginning of 2001, the stock markets have seen $4.5 trillion of wealth evaporate, much of that wealth in the pension funds of American workers, American retirees.

We have seen the equity markets themselves lose 40 percent of their value. We have seen the spread between short- and long-term interest rates, a key indicator of future happenings in our economy, grow wider than it has in recent history. We have seen a Federal Government that was bringing in $108 for every $100 that we spent at the beginning of 2001, now bringing in $90 for

every $100 that we spend, and covering the difference by borrowing from the Social Security trust fund, running the government on Social Security money that should be there for the future.

The right thing to do would be to renegotiate the country's budget, to bring to this floor legislation that would really make a difference to the people that have been stressed, an extension of unemployment benefits for people who cannot find work, a means of creating more jobs in the short run for people who cannot find work, provisions that would truly strengthen pension plans, and one of those provisions can be brought to the floor if Members vote ''no'' on the previous question, and that is the idea of the gentleman from California (Mr. MATSUI), which says that a self-regulating concept in pension plans will be that whatever the top guy in the organization gets, everybody else has to get, too. If there is a restriction on what can be done with stock that applies to the person who cleans the office at night, then it applies to the person who owns the office building. If there are benefits for the person high up in the executive suite, a similar kind of a benefit has to apply to every single man and woman who stands under that person on the company's organizational table.

This is a real change that would make a real difference at a time of real problems. I regret that what we are going to do if the majority passes this rule is pass a couple of ceremonial resolutions to take note of what we wish the other body would do. We cannot control what the other body does. It has a conscience and a rhythm all of its own. That is what the framers intended. However, we ought to do something rather than nothing.

Mr. SESSIONS. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

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

Mr. Speaker, over the course of this past year, we have watched employees of Enron and WorldCom and other companies watch their retirement savings dwindle to almost nothing. The House in a bipartisan way came together on April 11, 160 days ago, to pass the Pension Protection Act which will in fact help protect all pensions in America. Yet the Senate has not acted.

Now the Senate did in fact act along with the House when we passed the Corporate Accountability bill to put those corporate insiders who have abused their shareholders and abused the law and put them in jail. In that bill, I might add, there were two provisions from the Pension Security Act actually signed into law. One, a provision that would bar company insiders from selling their stock during a blackout period where the plan administrator is changing.

Secondly, in the Corporate Accountability bill, we do require that pension plan administrators notify their employees 30 days in advance of any blackout period. But we all know there is a lot more that needs to be done. We need to give workers more freedom to diversify their 401(k) accounts. We need to make sure that workers have access to high-quality investment advice. But the House cannot do it alone.

We all know under the Constitution that before a bill can become law and go to the President's desk, it has to be acted on by the House; it has to be acted on by the other body. Any differences have to be resolved before the bill goes to the President. The House has acted. The Senate has yet to take up pension legislation, and I believe this issue is one thing that needs to be done.

We have to remember that this bill, the Pension Security Act, passed the House with 46 Democrat members voting for it. We worked in a bipartisan way to make responsible reforms that really would in fact protect the pension assets of many of our employees. But we cannot get this bill to the President's desk until we have action. That action needs to occur, and it needs to occur now.

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

Mr. Speaker, when people who are watching this on television, maybe listening to us on the radio, perhaps following these proceedings in the newspaper tomorrow, when members of the public get their quarterly 401(k) statements next week and the statements from their mutual funds, think of the Republicans when you open that up. Think of the Republicans and what they have not done and what they are not willing to do to improve the economy.

They are not willing to bring any legislation to the floor today that makes any difference. They bring meaningless resolutions. I urge members of the public, think of my friends on the Republican side when you open your quarterly 401(k) statement next week.

Mr. Speaker, the majority should be ashamed to bring these sense of Congress resolutions to the floor. These resolutions are pieces of paper that do nothing, help no one, and waste the time of the House of Representatives. No wonder the American people are cynical about their government. Mr. Speaker, I would be, too, if this is the best the majority can produce.

If there is any Member on the majority side who wishes to pass some actual legislation, they should join us in defeating the previous question of the rule. If that occurs, then I will offer an amendment that provides immediately after the House passes this meaningless rule, it will take up a bill that contains real corporate welfare reforms. While the Republican majority is busy indulging their aversion to passing actual legislation so close to an election, Democrats want to crack down on corporate executives who get cheap leases for their corporate jets while their company's 401(k) plan collapses. The majority allows these executives to shield their earnings and retire to their penthouses and benefits for life, while the American people are left playing for this largess.

This is wrong, Mr. Speaker. Democrats know it and are willing to do something about it, while the Republicans pretend these problems do not exist. I do not know about anybody on the other side, Mr. Speaker, but Democrats want to work. We are elected to help make things better for the American people, not to stall legislation we were afraid would hurt us with our big donors too close to an election time.

By defeating the previous question, the House can take up this bill and stop the two classes of people we now have in this country: executives who walk away with millions and live the life of luxury, and the rank-and-file worker who goes home every day hoping their 401(k) plan will last until retirement.

Mr. Speaker, Members, all a ''yes'' vote does is waste time, and Congress has done enough of that for the past 3 weeks. Let us actually pass something that matters. Let us get some work done. I urge a ''no'' vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

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

There was no objection.

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

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

Mr. Speaker, we promised at the beginning of this debate on the rule that it would be contentious, that we understood that the Democrat Party opposed what we were doing, and we understood what we were supporting. We believe what we are talking about here is good for investors. We believe it is good for people to have 401(k)s, pension plans, the opportunity to save more money.

We have had a chance to debate these important issues. We have had any number of speakers on both sides of the aisle who have talked about the things that are good and bad about these resolutions that we are talking about; but the bottom line is that Members will get a chance to vote now after hearing this debate.

Mr. Speaker, I think the previous question will pass, that we will pass these resolutions, that the vast majority of Members will understand what we are doing, the importance to the American people, and the importance to people who are trying to make a go of it with their own savings account.

□ 1645

I think the American public understands what we are doing, and I think they understand what the Republican Party stands for.

The material previously referred to by Mr. FROST is as follows:

PREVIOUS QUESTION FOR H. RES, 547—RULE ON H. RES. 540 SENSE OF THE HOUSE THAT THE CONGRESS SHOULD COMPLETE ACTION ON H. RES. 3762, THE PENSION SECURITY ACT OF 2002, H. RES. 543 SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 4019, MAKING MARRIAGE TAX RELIEF PERMANENT AND H. RES. 544 SENSE OF THE HOUSE OF REPRESENTATIVES ON PERMANENCY OF PENSION REFORM PROVISIONS

At the end of the resolution add the following new sections:

SEC. . Notwithstanding any other provision in this resolution, immediately after disposition of the resolution H. Res. 540, the Speaker shall declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5432) to amend the Internal Revenue code of 1986 with respect to the amount included in gross income by reason of personal use of corporate property, to require the same holding period for company stock acquired upon exercise of options as is applicable to company stock in its 401(k) plan, to require disclosure to shareholders of the amount of corporate perks provided to retired executives, and to provide parity for secured retirement benefits between the rank and file and executives. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. 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.

SEC. . If the Committee of the Whole rises and reports that it has come to no resolution on the bill, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of that bill.

H.R.—

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

SECTION 1. SPECIAL RULES FOR EXECUTIVE PERKS AND RETIREMENT BENEFITS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end the following new subpart:

''SUBPART F—SPECIAL RULES FOR EXECUTIVE PERKS AND RETIREMENT BENEFITS

''Sec. 420A. Holding period requirement for stock acquired through exercise of option.

''Sec. 420B. Additional tax on nondisclosed retirement perks.

''Sec. 420C. Inclusion in gross income of funded deferred compensation of corporate insiders.

''Sec. 420D. Definitions and special rule.

''SEC. 420A. HOLDING PERIOD REQUIREMENT FOR STOCK ACQUIRED THROUGH EXERCISE OF OPTION.

''(a) IN GENERAL.—In the case of a corporate insider with respect to a corporation, the tax imposed by this chapter on a corporate insider for any taxable year shall be increased by 50 percent of the amount realized by such insider from the disqualified disposition during such year of stock acquired by the corporate insider upon the exercise of a stock option granted by the corporation with respect to which such individual is a corporate insider.

''(b) DISQUALIFIED DISPOSITION OF STOCK.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'disqualified disposition of stock' means any sale, exchange, or other disposition of stock which, if such stock were employer securities held in a qualified cash or deferred arrangement (as defined in section 401(k)(2)), would violate any restriction imposed on the sale or other disposition of such securities by the plan of which such arrangement is a part.

''(2) SPECIAL RULE FOR 2 OR MORE CASH OR DEFERRED ARRANGEMENTS.—If a corporation has more than 1 qualified cash or deferred arrangement (as so defined), the restrictions which apply for purposes of paragraph (1) shall be the most restrictive provisions relating to the disposition of employer securities held pursuant to any such arrangements.

''SEC. 420B. ADDITIONAL TAX ON NONDISCLOSED RETIREMENT PERKS.

''(a) IN GENERAL.—In the case of a publicly traded corporation, the tax imposed by this chapter for the taxable year shall be increased by 50 percent of the net cost to the corporation for the taxable year of personal perks provided to a retired executive of the corporation.

''(b) WAIVER IF PERKS PROVIDED PURSUANT TO SHAREHOLDER APPROVAL.—Subsection (a) shall not apply with respect to any personal perks provided pursuant to a contract if—

''(1) all of the material terms of such contract (including a description of the benefits to be provided to the executive and the extent of such benefits) are disclosed to shareholders, and

''(2) such contract is approved by a majority of the vote in a separate shareholder vote before any benefits are provided under the contract.

''(c) NET COST OF PERSONAL PERKS.—

''(1) IN GENERAL.—For purposes of subsection (a), the net cost of personal perks provided to a retired executive is the excess of—

''(A) the cost to the corporation of such perks, over

''(B) the amount paid in cash during the taxable year by the executive to reimburse the corporation for the cost of such perks.

''(2) PERSONAL PERKS.—For purposes of paragraph (1), the term 'personal perks' means—

''(A) the use of corporate-owned property,

''(B) travel expenses, including meals and lodging, unless such expenses are directly related to the performance of services by the executive for the corporation and the business relationship of such expenses is substantiated under the requirements of section 274,

''(C) tickets to sporting or other entertainment events,

''(D) amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose, and

''(E) other personal services, including services related to maintenance or protection of any personal residence of the executive.

''(3) COST RELATING TO USE OF CORPORATE-OWNED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The cost taken into account with respect to the use of corporate-owned property shall be the allocable portion of the total cost of operating such property.

''(B) ALLOCABLE PORTION.—For purposes of subparagraph (A), the allocable portion of total cost is—

''(i) the portion of the total cost (including depreciation) incurred by the corporation for operating and maintaining such property during the corporation's taxable year in which such use occurred,

''(ii) which is allocable to the use (determined on the basis of the relationship of such use to the total use of the property during the taxable year).

SEC. 420C. INCLUSION IN GROSS INCOME OF FUNDED DEFERRED COMPENSATION OF CORPORATE INSIDERS.

''(a) IN GENERAL.—If an employer maintains a funded deferred compensation plan—

''(1) compensation of any corporate insider which is deferred under such funded deferred compensation plan shall be included in the gross income of the corporate insider or beneficiary for the 1st taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

''(2) the tax treatment of any amount made available under the plan to a corporate insider or beneficiary shall be determined under section 72 (relating to annuities, etc.).

''(b) FUNDED DEFERRED COMPENSATION PLAN.—For purposes of this section—

''(1) IN GENERAL.—The term 'funded deferred compensation plan' means any plan providing for the deferral of compensation unless—

''(A) the employee's rights to the compensation deferred under the plan are no greater than the rights of a general creditor of the employer, and

''(B) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available to the participant or other beneficiary) solely the property of the employer (without being restricted to the provision of benefits under the plan), and

''(C) the amounts referred to in subparagraph (B) are available to satisfy the claims of the employer's general creditors at all times (not merely after bankruptcy or insolvency).

Such term shall not include a qualified employer plan.

''(2) SPECIAL RULES.—

''(A) EMPLOYEE'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(A) unless—

''(i) the compensation deferred under the plan is payable only upon separation from service, death, disability, or at a specified time (or pursuant to a fixed schedule), and

''(ii) the plan does not permit the acceleration of the time such deferred compensation is payable by reason of any event.

If the employer and employee agree to a modification of the plan that accelerates the time for payment of any deferred compensation, then all compensation previously deferred under the plan shall be includible in gross income for the taxable year during which such modification takes effect and the taxpayer shall pay interest at the underpayment rate on the underpayments that would have occurred had the deferred compensation been includible in gross income on the earliest date that there is no substantial risk of forfeiture of the rights to such compensation.

''(B) CREDITOR'S RIGHTS.—A plan shall be treated as failing to meet the requirements of paragraph (1)(B) with respect to amounts set aside in a trust unless—

''(i) the employee has no beneficial interest in the trust,

''(ii) assets in the trust are available to satisfy claims of general creditors at all times (not merely after bankruptcy or insolvency), and

''(iii) there is no factor that would make it more difficult for general creditors to reach the assets in the trust than it would be if the trust assets were held directly by the employer in the United States.

Except as provided in regulations prescribed by the Secretary, such a factor shall include the location of the trust outside the United States.

''(c) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

''(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5), and

''(B) any other plan of an organization exempt from tax under subtitle A.

''(2) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

''(3) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

''(4) TREATMENT OF EARNINGS.—Except for purposes of subsection (a)(1) and the last sentence of (b)(2)(A), references to deferred compensation shall be treated as including references to income attributable to such compensation or such income.

''SEC. 420D. DEFINITIONS AND SPECIAL RULE.

''(a) DEFINITIONS.—For purposes of this subpart—

''(1) CORPORATE INSIDER.—The term 'corporate insider' means, with respect to a corporation, any individual—

''(A) who is subject to the requirements of section 16(a) of the Securities Exchange Act of 1934 with respect to such corporation, or

''(B) who would be subject to such requirements if such corporation were an issuer of equity securities referred to in such section.

''(2) RETIRED EXECUTIVE.—The term 'retired executive' means any corporate insider who is no longer performing services on a substantially full time basis in the capacity that resulted in being subject to the requirements of section 16(a) of the Securities Exchange Act of 1934.

''(3) PUBLICLY TRADED CORPORATION.—The term 'publicly traded corporation' means any corporation issuing any class of securities required to be registered under section 12 of the Securities Exchange Act of 1934.

''(4) CORPORATE-OWNED PROPERTY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'corporate-owned property' means any of the following property owned by a corporation—

''(i) planes,

''(ii) apartments or other residences,

''(iii) vacation, sports, and entertainment facilities, and

''(iv) cars.

Such term includes any such property which is leased or chartered by the corporation.

''(B) EXCEPTIONS.—Such term does not include any property used directly by the corporation in providing transportation, lodging, or entertainment services to the general public.

''(b) ADDITIONS TO TAX NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The tax imposed by sections 420A and 420B shall not be treated as a tax imposed by this chapter for purposes of determining—

''(1) the amount of any credit allowable under this chapter, or

''(2) the amount of the minimum tax imposed by section 55.''.

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 of such Code is amended by adding at the end the following new item:

''Subpart F. Special Rules for Executive Perks and Retirement Benefits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as follows:

(1) Section 420A of the Internal Revenue Code of 1986 (as added by this section) shall apply to stock acquired pursuant to the exercise of an option after the date of the enactment of this Act.

(2)(A) Except as provided by subparagraph (B), section 420B of such Code (as so added) shall apply to perks provided after the date of the enactment of this Act.

(B) In the case of perks provided pursuant to a contract in existence on the date of the enactment of this Act, such section 420B shall apply to such perks after the date of the first annual shareholders meeting after the date of the enactment of this Act.

(3) Section 420C of such Code (as so added) shall apply to amounts deferred after the date of the enactment of this Act.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on ordering the previous question.

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

Mr. FROST. 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.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 217, nays 200, not voting 15, as follows:

[Roll No. 413]

YEAS—217

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bereuter
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Castle
Chabot
Chambliss
Coble
Collins
Combest
Cooksey
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCrery
McHugh
McInnis
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barcia
Barrett
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ross
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Skelton
Slaughter

Smith (WA)	Taylor (MS)	Watson (CA)
Snyder	Thompson (MS)	Watt (NC)
Solis	Tierney	Waxman
Spratt	Towns	Weiner
Stark	Turner	Wexler
Stenholm	Udall (CO)	Woolsey
Strickland	Udall (NM)	Wu
Stupak	Velazquez	Wynn
Tanner	Visclosky	
Tauscher	Waters	

NOT VOTING—15

Bachus	Mascara	Roukema
Bonior	McDermott	Stump
Borski	McKinney	Thompson (CA)
Callahan	Mink	Thurman
Maloney (NY)	Radanovich	Young (AK)

□ 1733

Messrs. BRADY of Pennsylvania, WU, and BAIRD changed their vote from ''yea'' to ''nay.''

Mr. GARY G. MILLER1 of California and Mr. HEFLEY changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 547, I call up the resolution (H. Res. 540) expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

H. RES. 540

Workers with stronger pension protections and greater access to professional investment advice;

Whereas a bipartisan majority of the House of Representatives passed H.R. 3762, the Pension Security Act of 2002, on April 11, 2002, by a vote of 255 to 163;

Whereas the Pension Security Act of 2002 would provide working Americans with more investment education and information regarding their retirement plans, greater access to professional investment advice, rights to diversified pension plan assets, protections against corporate abuses and mismanagement of pensions, and other reforms that would increase pension coverage;

Whereas the pension protections and reforms contained in the Pension Security Act of 2002 would enhance the retirement security of American workers; and

Whereas the Senate has not passed the Pension Security Act of 2002 or equivalent legislation: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should complete action in the 107th Congress on the Pension Security Act of 2002 and present such legislation to the President for his signature prior to adjournment so that needed pension protections and reforms may be delivered to the American people.

The SPEAKER pro tempore. Pursuant to House Resolution 547, the gentleman from Ohio (Mr. BOEHNER), the gentleman from California (Mr. GEORGE MILLER), the gentleman from Ohio (Mr. PORTMAN), and the gentleman from California (Mr. MATSUI) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 540.

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

There was no objection.

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

Mr. Speaker, over the last year, thousands of hardworking and loyal Enron and WorldCom employees watched helplessly as their companies and their retirement portfolios collapsed. We have an obligation to provide workers with the tools to help them manage their retirement savings. Let us just put the facts on the table: the House has acted on bipartisan pension protections, but the Senate has not.

Back in February, President Bush called on Congress to act in a bipartisan fashion to restore confidence in our Nation's pension and retirement security system. More than 160 days ago, the House did its part by passing a comprehensive pension protection bill that protects workers from losing their retirement savings in Enron-style corporate meltdowns. Today we wait.

One thing is very clear: worker retirement savings remain vulnerable to corporate meltdowns today, and it should not take another Enron or WorldCom for Congress to act on bipartisan pension protection that would give workers the tools they need to protect and expand their retirement savings.

That is exactly why we passed the Bipartisan Pension Security Act in April, more than 160 days ago. It takes a balanced approach by expanding worker access to investment advice and includes new safeguards to help workers preserve and enhance their retirement security, such as giving employees new freedoms to diversify their portfolios. However, it also insists on greater accountability from senior company insiders.

There are several pension provisions that the Senate has not acted on. Enron barred workers from selling company stock until age 50; the Pension Security Act gives workers new freedom to sell their company stock within 3 years. In addition, it requires companies to give workers quarterly benefit statements that include information about accounts, including the value of their assets, their right to diversify, and the importance of maintaining a diverse portfolio. The benefits of diversification will help workers better plan and save for their future over the long term.

The bill also empowers workers to hold company insiders accountable for abuses by clarifying that companies are responsible for workers' savings during blackout periods when workers cannot make changes to their 401(k)s. Under the Pension Security Act, as under current law, workers can sue company pension officials if they violate their fiduciary duty to act solely in the interests of 401(k) participants.

As we all know, defined contribution 401(k)-type accounts have become a primary vehicle for retirement savings. Yet, today, the vast majority of American workers receive no investment advice on how best to structure their 401(k) retirement plans; and most cannot afford to pay for it on their own like company insiders can. It is time to fix these outdated Federal rules that discourage employers from giving workers access to professional investment advice.

Like most U.S. companies, Enron and WorldCom did not provide their workers with access to this type of investment advice. The investment guidance would have alerted these workers to the need to diversify their accounts, which would have enabled many to preserve their retirement savings. The Pension Security Act changes these outdated rules and encourages employers to provide their workers with access to this high-quality investment advice.

We need to give investors more choices and more information to choose wisely, so they are better able to navigate their way through volatile markets and maximize the potential of their hard-earned and hard-saved retirement savings. Workers must also be fully protected and fully prepared with the tools they need to protect and enhance their retirement savings.

The Committee on Education and the Workforce, along with my colleagues from the Committee on Ways and Means, have been engaged on the issue of pension reform for several years now, looking at ways to expand worker access to high-quality investment advice and encourage employers to sponsor retirement plans for their workers.

As our committees have been doing hearings to specifically address the Enron collapse, we did so with a firm commitment to identify further reforms that promote security, education, and freedom for employees who saved all their lives for a secure retirement. Congress should move decisively to restore worker confidence in the Nation's retirement security and pension system, and the bill before us will accomplish those goals.

Unfortunately, instead of gathering the President's signature, the Pension Security Act has been gathering dust. The Senate has not acted on any pension protection bill. If we are truly concerned about protecting the pensions of American workers, the 107th Congress will complete action on this vital issue and send President Bush a bipartisan pension security bill that he can sign into law.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ), a member of the committee.

Ms. SANCHEZ. Mr. Speaker, I wonder if the gentleman from Ohio (Mr. BOEHNER), who just spoke on the other side of the aisle, realizes that the constituents in his State have lost $8.27 billion of their hard-earned nest egg due to a poor economy, corporate scandal, and weak pension laws. That is why we need to do something about these pension laws.

By now, all Americans have been affected in some way by the fallout from the collapse of large corporations like Enron, WorldCom, and Tyco. Executives have escaped troubled companies with millions of dollars in compensation, while American workers have lost over $175 billion in their 401(k) plans. Workers in my own State of California alone have lost more than $18 billion in their 401(k) savings plans.

As a legislative body, we have begun to examine ways to protect American families from future loss through the Pension Security Act, but among the many issues in this bill that we do not address is the lack of employee representation on pension boards. In its current form, pension boards have the potential to continue the cronyism that got us into the dilemma that we are in now.

In the case of Enron, many of the pension board trustees were high-ranking executives whose corporate marching orders did not represent the best interests of the workers they were appointed to protect. The Rangel-Miller substitute to the Pension Security Act would have given employees a voice at the table, where decisions about their companies' pension plans and offerings are made.

Employee representation on pension boards has already been successful, even in my own State of California, where we have the California Public Employee Retirement System, or PERS. We require six of the 13 members of that board to be elected by active and retired workers of that system.

Giving workers a real voice and real choice means ensuring active participation and overall plan management. Workers bear the financial risk in 401(k)s. They deserve to get pension people on the board representing them.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING), the author of the resolution before us.

Mr. PICKERING. Mr. Speaker, I thank the gentleman from Ohio (Mr. BOEHNER) for his leadership on pension reform and thank both him and the gentleman from Ohio (Mr. PORTMAN) for all they have done. I am pleased to sponsor the resolution before us today expressing the sense of the House of Representatives that Congress should complete action on H.R. 3762, the Pension Security Act of 2002.

Mr. Speaker, due to gross irresponsibility, corruption, and financial mismanagement, several of our country's most noted corporations have collapsed. Accordingly, tens of thousands of employees who held their retirement accounts in these companies have lost everything. Plans made for retirement vanished, hopes and dreams for the future disappeared, and savings to send children to college are gone, all because of improper and fraudulent actions of a handful of corporate executives who took advantage of this system.

We know all too well in my home State of Mississippi the cost and the consequence and the hurt and the pain and the loss when this happens. The leadership of this House, Republicans and Democrats on a bipartisan basis, took action to prevent further such abuses. We passed the Pension Security Act in April to protect the pensions of American workers from corporate wrongdoing while restoring worker confidence in our country's pension system.

□ 1745

However, the Senate has not passed pension security reform. Will we allow yet another corporate scandal to hurt even more families before we get a bill to the President's desk?

National security is critical today. Economic security is vital today. Retirement security should be a top priority and must be passed before we leave this session. It is crucial legislation that will reform our country's outdated pension laws. It prevents corporate insiders from selling their own stock during blackouts, and it gives workers freedom to diversify their portfolios.

Mr. Speaker, the House has done its duty. We passed this much-needed reform 5 months ago. While the President waits, the opportunity to sign this bill sits motionless, collecting dust. The time to act is now.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I wonder if the gentleman who just spoke realizes that his own constituents in his State lost $1.48 billion of his constituents' hard-earned dollars there. So I just want to remind him also of the scandal that has taken place here today.

Mr. Speaker, I rise here today because the rank and file workers, many of whom that I represent and many that Members here represent know and expect Congress to do something about this corruption that has been going on now for some time and not continue with this whole issue of safeguarding the lives of individuals that make seven-figure pensions, get special perks, and will get more protections under this Republican-sponsored piece of legislation.

As my colleagues know, this country lost over $175 billion in retirement savings, and in California alone we lost 18 billion. I would like to remind people that in our own districts right now we are faced with some very hard issues. Our economy is hurting. Nationally Hispanics right now have one of the highest rates of unemployment, 7.5 nationally, and in my own district in California in cities that I represent it is way above 11 percent and it has been there for 6 months or more.

How do I explain when I go home to my constituents that we are ignoring the jobs about putting bad CEOs behind bars and letting them go scot free? We cannot allow this version, the Republican-sponsored legislation, to get out because people are watching. Americans want to know that there is justice for all.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON), a member of the committee.

Mr. ISAKSON. Mr. Speaker, I thank the chairman for yielding me this time, and I thank the chairman for the hearing he called immediately following the revelations about Enron, a meeting that so far everybody that has spoken was in attendance, a meeting that a gentleman spoke at who was an employee of Enron. The real scandal is not a bunch of statistics where somebody tries to divert attention. The scandal is that on that day that committee where everybody that has spoken so far attended heard a man, an employee at Enron, who had $751,000 in his 401(k) in January and had nothing by the time we had that hearing. And at the same hearing the administrator and a trustee of that plan who testified admitted that her plan had gone down by only 10 percent and the difference was she had information and she could diversify. And when that gentleman, an employee of Enron, was asked about the information he received from his executives, he said the only thing they were sent was the value of the increase of Enron stock.

We can talk about all the scandals we want to, but the biggest scandal of all would be a failure of this Congress, in a year of trepidation and economic tragedy, to not see to it that the rank and file Americans we represent have a right to good information, the right to hold the administrators accountable, and the right to diversify their accounts. So rather than point to obscure statistics about what may have happened in a State and trying to attribute it to an individual who speaks, let us speak unitedly as we did in bipartisan effort just months ago and let us pass a bill that brings about the kind of reform to put to an end the kind of tragedies that took place at Enron just a short time ago. Do not divert the debate. Help the American worker and the citizens we represent.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY), a member of the committee.

Mr. TIERNEY. Mr. Speaker, I suppose that the gentleman who just spoke up understands that the constituents in his State have lost about $5.25 billion of their hard-earned nest egg due to a poor economy, corporate scandal, and weak pension laws, and in fact, what is amazing is all of the things that he talked about at that hearing were true. That was what the hearing told us. Nothing in the bill that passed this House would address any of those issues. That poor employee still would never have gotten information from the employer, from the CEOs and the other high corporate officers saying that they had bailed out on their stock and left the employees holding the bag. The bill that passed the House does not resolve that. Nothing puts those people on the board of directors so that they can be aware of situations like that and help them.

The fact of the matter is once again we are here in this House talking about a sense of the House, which makes no sense because it does not do anything. We are instructing the other body on how to do its business instead of doing our business. Do we want to help people in this country? What they need is an extension of their unemployment benefits. They are out. But we are not talking that action. We are talking about a sense of the House resolution.

Let us talk about people who do not have health insurance. There are almost 40 million of them now. We are not doing anything on that. Let us talk about education. We have a ''no child left behind'' bill that the President ran around the country touting, but he is afraid to have the majority bring it up in the House because we are $7 billion short on it. And that is money to help people get their children an opportunity in the future.

We could be talking about job training for people that need to get back into work, except the budget put forward by the majority and the administration, cuts those funds way back so that people that are displaced cannot have the resources they need to move forward.

The fact of the matter is this economy continues to struggle. Families across America watch helplessly while their retirement savings dwindle because of corporate greed. We watch their health care costs rise. Small businesses cannot meet those, and yet there is no help going out in that direction because we are not dealing with any business of import to American families in the House. We are dealing with senses of the House, senses of Congress, telling the other body of the Congress what it should be doing.

The fact of the matter is, Mr. Speaker, there is much we could be doing, much that we should be doing. I say let us get down to business and let us do it.

Mr. BOEHNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT), a member of committee.

Mrs. BIGGERT. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I rise in strong support of House Resolution 540. Throughout the Nation employers pay good money to provide an excellent benefit to their employees' 401(k) plans run by professionals, and yet our 27-year-old law effectively silences those professionals, denying employees a major part of the benefit their employers want them to have. Now more than ever the 42 million Americans investing their retirement income in 401(k) plans need access to critical investment advice that will help them achieve their financial goals.

Retirement security and investment advice legislation has passed by a bipartisan vote in the House, not once but twice during this Congress. What I like best about this bill that we have passed is it gives workers more freedom to diversify their retirement savings. American workers need relief and they deserve it now. Let us get our pension reform legislation to the President's desk before Congress adjourns this year.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY), a member of the subcommittee.

Ms. WOOLSEY. Mr. Speaker, I wonder if the gentlewoman who just spoke realizes that constituents in her State have lost $8.66 billion, the fourth highest amount in the Nation, of their hard earned nest egg due to a poor economy, corporate scandal and weak pension laws.

Here we are after that, it is the last full week in September and the House has passed only five of 13 appropriations bills, and yet we are taking precious time to debate a meaningless resolution urging the Senate to pass a pension reform bill.

Do I want the Senate to pass pension reform? I sure do. But rather than wasting our time worrying about the Senate, I call on the majority party to pass a real pension reform bill here in our House because we have not done that yet.

Unlike the House passed pension bill, a real pension reform bill will make pension fairness its number one highest priority. The House passed pension bill not only fails to correct the pension inequities in current law which favors corporate executives over employees, it actually makes them worse. The House passed bill continues to allow executives to sell the stock that they receive in stock options at any time they choose, while it blocks their employees from selling company provided stock for 5 years.

The House passed pension bill will continue to allow executives to dump their own company stock without notifying their employees. In fact, under the House passed bill executives can actually encourage employees to continue to buy company stock just as they did at Enron, where thousands of employees lost significant amounts of their pensions. And an even bigger step backwards is that the House passed bill gives an unfair share of benefits to top executives, resulting in fewer pensions for lower wage workers.

Mr. BOEHNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip.

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

Mr. Speaker, I could say that all the issues that the gentlewoman was talking about could be taken care of in conference committee if we could get a bill from the Senate and go to conference and work some of these out. The reason that we are here today is very important. We do not have a conference committee, and we do not have a bill that we can work on and work these problems out.

Members will vote today to reaffirm the House's commitment to protect workers' pensions and their 401(k) plans. Employees who watch renegade corporate officers raid their pensions want President Bush to be able to sign a piece of legislation to protect their retirement funds from future attacks.

Now, back in March the President told Congress to send him some common sense reforms and on April 11 this House answered his call. This House passed the bipartisan Pension Security Act. These powerful protections attracted support from 46 Democrats. They joined the Republican House majority because our pension protections were needed and they are necessary. Members of both parties came together because workers 401(k)s and pensions were in jeopardy and that had to change. Specifically, the House pension protection package gives clear new diversification rights to employees.

Now they are vested in only 3 years. Now they can diversify out of company stock. Now they have multiple investment options that are provided to the employees, and now they have more than their employer stock. We strengthened notice rights so that employees will not get caught off guard. We have placed strong restrictions on CEOs. We blocked other executives from trading company stock when the employees cannot trade their stock.

Mr. Speaker, the House passed a strong balanced pension security plan months ago, but those potent new protections are not helping the American people yet. The President is still waiting for the Pension Securities Act to reach his desk. He says he will sign it as soon as it comes. He has been waiting since April. Millions of worried Americans are waiting for action on their retirement security. They should not wait another week. There is no reason in the world to postpone action on pension reform. Workers have watched for half the year as their 401(k)s and their pensions have been battered about by politics, and despite the clear need for pension reform, the President continues to wait, unable to sign the bill that the House passed in a big bipartisan way.

So I just encourage our Members to support this resolution. Send a very strong message to the American people. Let us demands action on pension security. The Federal Government should put politics aside and vote to protect workers 401(k)s and protect workers' pensions.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

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

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

Mr. Speaker, I am sure the distinguished majority whip knows that the people of Texas have lost $11.47 billion in their pension assets since these scandals began, and I am pleased to hear him say that a conference would be necessary to fix the problems in the bill that passed the House in April.

He is right. There are a lot of problems, and one of those problems is best understood if we thought about what would happen if the majority's bill that had passed through this House were the law at the time the Enron scandal came along.

□ 1800

If Enron was working with a financial firm that was doing its investment banking on the one hand and giving investment advice to its pensioners in their 401(k) plan on the other hand, the majority's bill would make it legal for that financial firm to give advice to employees that would encourage them to buy Enron stock. We would have to wonder whether that advice was based upon the wisdom of buying Enron stock and filling up a pension 401(k) with it or whether it was based upon the reward that that financial firm is earning as an investment banker in the form of millions of dollars or tens of millions of dollars of fees by representing Enron.

The scandal that has roiled the market, the scandal that has caused the evaporation of $4.5 trillion of pension assets is all about conflict of interest. The flaw in the bill that the majority passed out of here 160 days ago is that it institutionalizes into the law conflict of interest.

The chairman is right when he says that American workers need sound investment advice, but he is incorrect when he says that this is the kind of advice that they need. American workers need independent, unbiased investment advice about where to put their money. The majority assures them just the opposite, which is why this motion should be defeated.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Speaker, the Republican majority has managed to move the discussion off the table and stifle any discussions of the swindles that have taken place. However, the hurt, the pain goes on with respect to what has been endured by working families and hardworking employees of corporations that swindle them out of their pension funds. To go forward with the kind of ceremonial bill that was passed in this House perpetuates that swindle.

We did not do anything significant. We did not deal with the situation that exists in terms of they have lost their money and no one has offered them ways to get it back, except I must pay tribute to the gentleman from New York (Mr. SWEENEY) and the AFL–CIO. Despite the fact that Enron's employees were not unionized, several other corporations were not unionized, they have gone to bat with them, and they have got a settlement with them in the bankruptcy courts for some Enron employees to get some of their money back.

We had an opportunity to be able to deal with correcting what the Republican majority started when they took control. They wanted to maximize deregulation from working conditions in the shops to the way corporations handle pension funds and anything else. They wanted to give the corporate bosses all the power they could give them and they did that, but in hindsight, after seeing the debacle that had taken place, we had hoped that there would be bipartisan cooperation, and small steps like guaranteeing that there be a representative of the employees on the pension committee were voted down by the committee, and the bill that left this House did not have that, very tiny steps like requiring that any executive who sold his stock would have to notify the public right away. Use electronic notifications, that is available now, that was voted down.

So we are in a ceremonial situation that should not go forward. We would like real pension reform, and I hope that we have bipartisan cooperation to get real pension reform.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself the remaining time.

I would urge the Members to vote no on this legislation because to vote yes on this is to reaffirm the House to do nothing. The fact of the matter is most of this legislation was written before the Enron debacle. Most of this legislation was written because it was designed for the purposes of increasing the contributions that people could make to the 401(k) plans, allowing small businesses to make contributions; to the owners, they would not have to offer pension plans at that point because there is no need for them to take care of their employees, treating executives differently than we treat employees. All of that was already in this legislation.

Yes, we had a hearing on Enron and we listened to these employees who were locked into their pension plans, could not sell their stock. This legislation would have those same people, the people who were locked into WorldCom, for whatever it is worth today, requires a 5-year phase-out period and then it is 3 years. We would like to talk about how the markets work and how fast they are and how they balance out. Those same people are stuck there today, riding this out as the market dropped to its lowest point in 6 years or in 4 years on the various indexes. They cannot sell that corporate stock because they are locked in.

If this Congress really wanted to do something, just free those millions of American workers so they could diversify today. They could get out with what little they have left in their corporate stock.

The gentleman from Ohio, in his State they have lost $8 billion in their 401(k)s. In California they lost $18 billion. He is right, those are not abstract figures. That means someone is not going to retire this year who planned on retiring. Somebody is not going to retire next year. I assume my colleague had constituents come to him, like they come up to me and told me how their retirement plans are shambles, how one of the spouses is going to have to continue to work. They thought he or she would be able to retire, how they now do not have the money to put their kids through school.

Yet the Republican plan does not do anything for these people. It does not let them out of these plans. It does not let them put workers on the board. 100 percent of this money belongs to the workers. It is their money. It is in their 401(k) plan, and they will not let them sit on the pension board to discuss information about investments.

Finally, they say, well, we give them more investment advice. After all we have learned out of Merrill Lynch, after we have learned out of Citicorp, after all we learned about the huge conflicts of interest about the investment banks and investment advice and touting these stocks, all we have learned, this bill does not respond to it because it allows those very same conflicts to continue. Wells Fargo now runs an investment fund. Other companies are scouring the landscape to try to buy these mutual funds because annuities are not doing so well. Insurance businesses do not want to be in the business. I know in the financial reform bill we had Chinese firewalls. They all broke down during the nineties. Everybody was doing everybody else's business.

We owe it to the public to turn down this bill, and we have to understand the reason the bill has not moved in the Senate is because the Republicans will not accept any worker protections. Yes, they want a bill just like this bill that takes care of corporate greed, takes care of corporate criminality, does nothing for the worker. That is unacceptable to the people in this country, and it should be unacceptable

to their elected representatives in the House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members again, it is not appropriate to characterize the positions of the Senate.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, at the end of the day we need to send President Bush a pension protection bill he can sign into law because this is about real people and their own financial security, and the gentleman and my colleagues on the other side of the aisle who talked all during this debate about the amount of losses in pension accounts by State is exactly the reason we have this resolution on the floor today.

The House passed pension protection legislation on April 11. We are still waiting to send a bill to the President, and I would remind my colleagues that this was a bipartisan bill, and I appreciate that my colleagues may not agree with all the aspects of the bill, but 46 Democrats voted with all Republicans to move this bill to the other body. Forty-six Democrats, almost one-fourth of the Democrat party in the House, voted with all the Republicans to move this bill to the other body to try to get it to the President's desk.

At the end of the day, this is about real people. It is about their retirement security, and it is time that this Congress act and get this bill to the President's desk before we leave here before the election.

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

The SPEAKER pro tempore. It is now in order to consider the debate controlled by members of the Committee on Ways and Means. The gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. MATSUI) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

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

I rise in strong support of the resolution before us. This is a resolution to send a strong message that it is time to help all American workers to save more for retirement and to be able to have more security in their retirement. I commend the gentleman from Mississippi (Mr. PICKERING) for offering the resolution, and I am happy to support him.

Mr. Speaker, today we are talking about doing the right thing. We are talking about just following up on what this House did back in April to be able to give people a little more security in their retirement. The underlying legislation that we are encouraging the other body to act on allows people who have retirement plans to have a lot more security in a number of different ways.

First, very importantly, if they are in a 401(k) plan now and they get a corporate match, as was the case with Enron, that company can tie a person into that stock for a long period of time. At Enron it was age 50 plus having 10 years of service. Under the 401(k) rules as they currently exist, a person could be tied down until they were age 65 or indefinitely.

We say instead people, after they have vested and they vest after only 3 years thanks to this House taking action last year to decrease vesting from 5-years to 3 years, after only 3 years they can divest of that stock. That is a big difference and it does make a difference. It makes a difference to millions of workers around this country who have 401(k) plans, for 42 million people in that situation. Those who have the good fortune of getting a match from their employer, and most of them do, and those who get that in corporate stock now will have the ability, the choice to be able to get out of that stock that the workers at Enron did not have.

Second and very importantly, it provides a lot better information to those same workers so that they are going to have the kind of data they need to make a good decision, better information, including the fact that when they get into a pension plan and get given a statement saying this is what this plan is all about and they ought to diversify, because commonly accepted investment principles for retirement says people do not want all their eggs in one basket, they want to have diversification. Companies now would have to say that in plain English to employees as they get into these plans. That is good. That is an improvement.

More important to me is that on a quarterly basis now a statement is going to be given to all workers. It includes the value of their assets, again their rights to diversify so they know they have those rights, an explanation of generally accepted investment principles in plain English. This is extremely important. It is not required now.

Finally, with regard to blackout periods, there was discussion earlier about the fact that during a blackout period that executives would be able to trade where employees would not who were in a 401(k) plan, that is not true. That is changed in this legislation.

This legislation also says that with regard to a blackout period a person has got to get 30 days notice. That was picked up in the Corporate Accountability Act that actually already passed, but it came out of this legislation out of the House.

There is additional fiduciary responsibilities that is in this legislation that during a so-called blackout period; that is, when the company changes advisers or something and has a blackout period on its 401(k) plan or other retirement plan, that people cannot trade in the stock during that time period. There are additional fiduciary responsibilities that go to the employer, to the executives. That is in the legislation. These are all positive changes.

Finally, with regard to education, everybody who looks at our retirement system today agrees that we not only need to allow people to put more aside for retirement, we need to encourage people to be able to do more for themselves and their families, but we also need to give people more information and better education. This legislation says that on a pretax basis a person gets a tax break basically for going down and getting investment advice, up to $500. It is not inexpensive to get investment advice. This is very important to people. They can choose whoever they want. There is no potential conflict of interest here because they can choose an adviser who is a third party who has nothing to do with the company or its 401(k) plan.

Also, significantly, as the gentleman from Ohio (Mr. BOEHNER) just discussed, it also provides companies the option to be able to have advisers come into the company and offer good, sound advice under a fiduciary duty, that they have to not only provide good advice and sound advice and objective advice but they have to be certified, they have to be qualified to do so, and they have to disclose any kind of potential conflict they might have with the company or its 401(k) plan.

This is, when we talk to people in the trenches, again, one of the most important, single aspects of this legislation, which is to provide workers with better education so they can make better decisions so there is a nest egg there when they retire that will take care of themselves and their families in retirement.

This is great legislation, and there is no better way to show that than the fact that it has passed the House on a strong bipartisan basis. Forty-six Democrats voted for it. It is now stuck in the other body, and the President waits for it to come to his desk which he says he will sign it. He will sign it immediately.

Today's exercise may be viewed by some as meaningless, but to us it is simply a way of sending a strong message. Workers are waiting for this relief. The Enron debacle happened about a year ago. In April the House acted, and still we see no action on the other side of the Capitol, in the other body, and therefore, we cannot help people to be able to get all those rights we talked about earlier, these important changes in retirement security.

There were a number of statements made earlier by some of my colleagues on the other side of the aisle that I just do not get. They talked about how this bill gives executives more perks. Name one. I challenge my colleagues. Name one. I do not know what they are referring to. They say it makes it worse because executives can divest or sell when there is an employee blackout. Not so, and actually, again, that is in current law now because it was part of this bill, but then it got passed as part of the Corporate Accountability Act.

□ 1815

I do not know what talking points the other side of the aisle is referring to. But the bottom line is that this legislation was bipartisan. It passed this House with a strong vote. It is entirely focused on retirement security, helping people to be able to have more security in their retirement accounts.

We are saying today that it is time to move this legislation from the halls of Congress and from a lot of talk to action, and to be able to actually help people in need, people who are looking at their retirement accounts decrease 20 to 30 percent, and telling those people help is on the way. This is one way to give Americans a more secure retirement. It is good legislation, and I strongly urge its passage.

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

Mr. MATSUI. Mr. Speaker, I yield 6 minutes to myself.

Mr. Speaker, I am astonished. It is 6:15 in the evening; West Coast time it is 3:15. We have been debating essentially this issue with the rule and now in debate; and we will go on for another couple hours on this, so we will have all of this staff time in the House of Representatives and all of us sitting in the House of Representatives.

What this resolution does is just say that the Senate should pass the Boehner-Thomas bill that was passed earlier this year. That is all it does. It is a meaningless piece of legislation. It has no effect of law. It is just gamesmanship.

I suppose the gentleman from Ohio (Mr. PORTMAN) actually might feel a little more secure at night because this resolution will probably pass, and it will make us feel better. Like, my gosh, we earned our pay because we were on the floor debating an important issue.

Maybe the gentleman from Ohio feels a little better also because people from the State of Ohio in their 401(k)s only lost $8 billion over the last 18 months. My problem is California, these same people that have 401(k)s, have lost $18 trillion. Maybe the intensity of the gentleman from California (Mr. GEORGE MILLER) and my intensity is a little greater than the intensity of the gentleman from Ohio because $8 billion is small time compared to what we lost in California.

But what is interesting is the way Members handle legislation is not by passing resolutions and beating our chest and making a spectacle of ourselves. We walk to the other body, 5 minutes away, and say to the Senators, this bill has not passed. How can we get this piece of legislation passed? They may raise some problems. They may say we should beef the bill up a little bit. Then we could come back and start talking. The reason nothing happens is because we keep beating our chests and pretending like we are legislating when we really are not.

Many of us who are concerned about this, in the last 18 months since President Bush took the oath of office, the stock market lost 40 percent. It went from 11,700 points down to 7,700 points. That is a lot of money. That is trillions of dollars worth of losses.

My colleagues said when the President took office, we have to reform Social Security; we are going to privatize Social Security. All of a sudden privatization has become a bad word because people have lost money in the stock market, so they abandon the discussion about Social Security; but it will probably come up next year because the President plans to privatize Social Security. That is why this election is important.

We will not debate Social Security. We have four Republican bills out there. The gentleman from Texas (Mr. ARMEY) has one, the gentleman from Florida (Mr. SHAW) has one. Why not bring those bills up on the privatization of Social Security. Let us debate those so at least the American public in an election year will know where we stand.

On prescription drugs, Republicans want to privatize Medicare and the prescription drug program. That is why the other body has a very difficult time with it because we want to put prescription drugs under the Medicare program to make sure all seniors are protected.

So we have fundamental differences, but what is really sad is that the Boehner-Thomas bill is irrelevant. We have some major problems in America. People have lost their 401(k) plans. People are stuck with their own company's plans, their stock in their 401(k)s. This bill will do very little. I think the gentleman from California (Mr. GEORGE MILLER) said it is a 5-year transition before it really comes effective. Then the so-called financial advice will come from the same people that are managing the Enron-type pension plans. They are going to say buy Enron stock or WorldCom stock because it is in their company's best interests. They are getting their wages from the company. That is why it is very difficult for the other body to get excited about this.

Mr. Speaker, what we should be dealing with right now is transparency. One of the real problems in the stock market and why there is a great loss of confidence is because people know that the books are not necessarily accurate. We saw that with the former CEO of General Electric, Jack Welch. This guy has a corporate jet on call, he had a penthouse in New York, tickets to sporting events. Millions and millions of dollars' worth of money that was part of his going-away present in perpetuity for the rest of his life. He was smart enough to give it up because he knew the political ramifications.

I wish my colleagues would have the judgment of Jack Welch, and I will tell Members why, not to punish corporate CEOs, but to provide transparency. The American public when they invest in the market should know exactly where that money is going. That means less stock dividends that are being paid out. That is why this is important.

We would like to just offer a bill, or even an amendment; but under the rules, the Republicans will not allow us to do it. But if in fact there is a situation where we are going to give big fringe benefits to many of these CEOs who are retiring, all it requires is letting the shareholders of the company know what these benefits are, what the value is; and secondly, letting the stockholders vote. What is wrong with that? Why can we not debate that issue today and send it over to the other body. I bet they would pass it quickly.

But the other side of the aisle does not want to do it quickly because they have a lot of friends that they are helping. That is what the problem is right now, and that is why this resolution is a waste of time, and that is why we have already wasted 3½ hours, and we will probably waste more time on nothing today. But we will go home, and we will feel a little better and have a glass of wine and kind of enjoy life.

But I will say that my constituents, maybe not the constituents of the gentleman from Ohio, but my constituents, because they have lost $18 trillion in their 401(k) plans, are really sad.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind Members that characterizing why the Senate might be having difficulty is also not in order under the rules.

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, pension security is close to the heart of every working American. Workers save for years with the hopes that after they retire they will be able to live without financial worries, spending more time with their family and friends.

Five months ago the House passed a pension reform bill with significant bipartisan support. This legislation gives workers the freedom to diversify their retirement savings, it expands worker access to investment advice, empowers workers to hold company insiders accountable for abuses, and gives workers added protections. The House has acted on pension reform; the Senate has not. Yet Americans continue to worry about their retirement security.

Mr. Speaker, Americans deserve a secure retirement. They expect it, and they have earned it. I also want to add that I think the majority whip a few minutes ago on the House floor, the gentleman from Texas (Mr. DELAY), made an excellent point. He reminded us that while the House has acted, the Senate has not. Under our system, unless we have a work product from the House and a work product from the Senate that can go to a conference

committee, we are not going to have pension reform. As much as we might criticize what the House has done, it is too late to do anything about it. Pension reform passed with bipartisan support in the House. The only action left now is once the House has acted, under our system, the Senate now needs to act, and we need to get that work product. The House has acted; the Senate has not.

The other point, Mr. Speaker, there has been a lot of sentiment expressed tonight about the great need for pension reform and pension security. I think we all agree with that, but we need to focus not on what is wrong with the work product of one body, but we need to focus on the solution. And once again, the only way we are going to get to that solution is if we have a work product from the House and we have a work product from the Senate. Unfortunately, the House has acted; but the Senate has not. Until we get to the point where we can get to the conference committee and resolve our differences and do what is right for American workers and the American people, and for those who deserve to have a secure retirement, we are not going to get to that solution. Once again, the House has acted and the Senate has not. Until we come up with a solution to that dilemma, which is going to be a conference report after the House and the Senate have acted, we are not going to do what is right for the American people.

Mr. Speaker, once again, the House has acted; the Senate has not. We have to resolve that before we can do what is right.

Mr. MATSUI. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership. I wonder if the gentleman from Texas (Mr. SMITH) realizes that his constituents in the State of Texas have lost $11.5 billion of their hard-earned nest eggs due to corporate scandal and weak pension laws.

It is very interesting to see us gathered on this floor telling the other body that it should pass legislation when we have been so delinquent in this body in doing our own business. The other body has passed a prescription drug benefit which we are trying to discharge with a discharge petition. We should be taking up that prescription drug benefit. The American people want and need it.

Not one single appropriations bill has become law even though the fiscal year is less than 1 week away, October 1. The Republican leadership has refused to schedule desperately needed bipartisan school construction legislation.

That leadership has also failed to schedule legislation to help all Americans with escalating prescription drug benefits, as I mentioned.

Now the Republican leadership has a new strategy, pass resolutions praising old, irresponsible tax bills and blame the other body. The resolution before us today is not only a press release, it is a very misleading one.

Members can see what we need to do for education in our country and how far short the Republican initiative on this comes, and that we are taking no action to meet the needs of America's children. The administration and the Republicans say Leave No Child Behind in their rhetoric, but in reality their budget request leaves millions of children behind by having a $7 billion deficit in what they are sending to this floor.

Hopefully, some of the Republicans on the other side of the aisle will prevail so we can do justice for our children. This is surreal. This is not sense of the Congress; this is nonsense of the Congress.

Mr. Speaker, our Founding Fathers placed a value on life, liberty and the pursuit of happiness. That pursuit of happiness included working hard, playing by the rules, and being able to reach their self-fulfillment and retirement with dignity, not to have to be dependent on their children to support them; indeed, helping their children reach their fulfillment.

What has happened to the pensions of America's workers is absolutely a travesty of justice and goes against the principles of our Founding Fathers who valued the pursuit of happiness.

□ 1830

Separate and apart from the ridiculousness of us telling the other body what to do when we have not done our own business, this bill is a bad bill and should not become law. Shareholders should be made aware of and allowed to vote on perks provided to retired executives, but not under this bill. Retired corporate executives often get large retirement benefits above and beyond their pensions and other conventional benefits. These include housing, corporate jets, living expenses, tickets to sporting events and the rest. Congress should impose penalties on corporations providing such benefits unless shareholders know and approve of such things. We should ensure that corporate executives that crash their companies cannot escape with golden or platinum parachutes. But corporate executives also get retirement benefits that they can collect even after the corporation fails. Congress should tax executives on their deferred compensation benefits like all other income if the benefits are paid to executives in the case of bankruptcy or corporate corruption.

This bill should be opposed because it endorses the Republicans' inadequate pension legislation. The GOP bill does not show what we have learned from the collapse of Enron, WorldCom and other corporate scandals. The underlying bill does little to protect employees' retirement savings. The underlying bill does not hold executives accountable. The underlying bill is not worthy of passage. Let us mind our own business, heed the needs of the American people, and pass our education bill, our prescription drug bill, and our own good pension bill.

I urge my colleagues to vote against this nonsensical sense of the Congress.

Mr. PORTMAN. Mr. Speaker, I yield myself such time as I may consume to talk a little about what is actually before us today. The gentlewoman from California talked about a lot of different issues and ended by saying that she is not supportive of the legislation because it does not include certain things. Everything she talked about including has to do with executive compensation. Taxing executives and talking about ways in which we can further keep executives from getting the kind of compensation that they are currently getting is a legitimate subject and it ought to be one that we have formal debate on, have hearings on it and bring it to the floor. But I would ask the gentlewoman how it is going to help one person have a more secure pension. It has nothing to do with what is before us. It is a great message.

I would ask the gentlewoman, I know that she is not on our committee that dealt with the prescription drug issue for months and I see the gentleman from California (Mr. MATSUI) is here, the gentleman from Maryland (Mr. CARDIN) and others from the committee, but to say that we have not passed a prescription drug benefit I think is a little surreal. I remember being on this floor and spending a lot of time on that issue. I remember passing a $350 billion piece of legislation that provides real coverage for prescription drugs. We can differ on how that prescription drug coverage is offered to our seniors, but the House took it upon itself to pass legislation that provides a real prescription drug benefit.

It, too, now that the gentlewoman has raised it, if she wants to get into the other issues, we can talk about all the ways the House has acted and the Senate has not acted and the President awaits. Prescription drugs is a perfect example. The Senate has not acted on providing a prescription drug benefit. If you would consider the generic drug legislation in the Senate a prescription drug benefit, I hope you are not going home and telling your constituents that because it is not going to offer them the kind of benefit that they are looking for which is to be able to pay for prescription drugs. The average senior pays over $2,100 a year. None of that will be helped by the generic bill that passed in the Senate. The Senate was not able to pass a prescription drug benefit. They had it on the floor for a week.

Homeland security is another issue that we worked on together. We passed that issue 9 weeks ago now or something like that. The President asked us to pass it, the House got busy, we had a good select committee process, and we passed it. The Senate still can't

seem to get its act together to pass legislation in that regard to be able to keep our country safer.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman will suspend. The phrase ''the Senate can't get its act together'' is not appropriate under the rules.

The gentleman may continue.

Mr. PORTMAN. I apologize to the Chair. I will refrain from saying that again.

My point is if you go down the list, whether it is prescription drug coverage, whether it is the pension security bill before us today, whether it is the faith-based initiative which passed this House on a bipartisan basis, whether it is having a budget, the Senate does not even have a budget, the Senate has not been able to, I am not sure how I can characterize this, but the Senate has not been able to act and the House has. I just think it is a little surreal to stand here and say that somehow in this prescription drug issue, the House has not acted and the Senate has is not accurate and to say that somehow this pension bill is not good because it does not deal with executive compensation issues which have nothing to do with what we were trying to do at the time, which was to give people a little more security and more rights with regard to their pensions.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. PORTMAN. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I appreciate the gentleman yielding. I will do my best not to name the other body by its name.

First of all, let me say that perhaps it is news to the gentleman that many people in our country have very serious concerns about the cost of drugs. The Senate, the other body, passed in a very strong way, 78–21, a generic drug bill that is on that table. We want it to come to the floor so this House can act upon it to lower the cost of prescription drug to the American people.

As far as the bill that passed this House, that is a sham in my view. The Democrats were proposing a prescription drug benefit with guaranteed benefits under Medicare for America's seniors. The Republican bill is a bill that tells seniors to go into the private market and we will help you buy insurance for prescription drugs there. But that is not a real guaranteed benefit.

Mr. PORTMAN. Reclaiming my time, I think I allowed the gentlewoman to make her point, which was my point, which is that the House did act to pass on a bipartisan basis, admittedly we did not agree on all the details, but we passed a real prescription drug benefit under Medicare. The Senate has not. I do not think there is any issue more important to my constituents. I agree with the gentlewoman. I think it is very important to move forward on that. But the Senate has not acted.

That is what we are trying to do today. We are just trying to shine light on the fact that on a number of different issues, the United States Senate has not followed suit, has not passed in a constructive way legislation that we could then take into conference and then send to the President for signature which then could have a real effect on the lives of real people. There is no issue more important than prescription drug coverage, but there is also a very important issue out there which is how to keep people who want to be able to save for their retirement, to give them a little more security so that they are going to know, in the example of Enron for instance, where they could not get rid of their corporate stock, they had to hold onto it because they were restricted, that that could no longer happen. That cannot happen if this legislation passes. People can no longer be told, You have to keep that stock until you're age 50 plus 10 years of service. They can no longer be told that during a blackout period executives are able to trade shares and they cannot. They can no longer be told they are not going to give notice of blackout periods when they cannot trade stocks. They can no longer be in a situation where they are not getting the kind of information that they need through quarterly statements, which we are going to require under this legislation, what their account is, what is going on with their plan. The kind of transparency that the gentleman from California (Mr. MATSUI) talked about is absolutely essential. That is the stuff of this legislation.

It also does provide education. I talked earlier about the gentleman from Maryland's bill and mine which lets people on a pretax basis get a tax break for going out and getting education advice wherever they want it. That is something I think this House on a bipartisan basis agrees is necessary to move to the next step in retirement security. Those are the kinds of things that are in this legislation. Those are the kinds of things that we need to have done. The Senate needs to act. The House has acted. It is time to actually help the American people and not just talk about it.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. All time controlled by the gentleman from Ohio has expired.

The Chair, since the next resolution will also deal with similar matters, would again remind Members that phrases like ''the Senate has not passed legislation in a constructive way'' is an inappropriate characterization of Senate action.

The gentleman from California has 5 minutes left.

Mr. MATSUI. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. I thank the gentleman for yielding time.

Mr. Speaker, it seems strange that we are here debating a sense of the Congress to instruct the other body how to do its business when we are not even allowed to use the name of the other body here. It seems strange that we are here talking about what they should do with their schedule when we have a schedule that begins on Tuesday night and ends on Thursday afternoon. We give new meaning to reducing the week. It used to be ''Thank God it's Friday.'' Now it is ''Thank God it's Thursday afternoon,'' so Congress can go home, without passing any appropriations bills, turning them into law before the end of the fiscal year, which is October 1. Not one appropriation bill is law.

Yes, I say to the gentleman, the Republicans did not pass a prescription drug bill under Medicare. The Democratic proposal was a prescription drug benefit under Medicare, guaranteed benefits for our seniors. The Republican bill is a hoax. Let us not try to fool the American people. They know what is real. Let us do an education bill so that we can fund education and afterschool programs and helping children. Let us pass our appropriations bills, let us have HMO reform, let us pass a prescription drug bill. Let us past electoral reform so we can have honest counts in our country about who should serve in office.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. I thank the gentleman from California for yielding me this time.

Mr. Speaker, I regret that this resolution is before us. It is not in the spirit of how we have worked on pension legislation in this Congress earlier. I am proud of the work that the gentleman from Ohio and I have done in a bipartisan way to bring forward pension legislation. But let me remind my friend the gentleman from Ohio that the legislation that we are considering today came to this body through the Committee on Ways and Means in a bipartisan way, but the Committee on Rules adopted an Education and Workforce version which was not in keeping with the way that we proceeded in a bipartisan manner and in fact contained provisions concerning investment advice which I think is very damaging and needs to be corrected, and I think many people believe that.

Let me also mention the other point that the gentleman from Ohio raised, and that is about corporate responsibility and having equal protection for the rank and file members versus the corporate executives. The gentleman from Ohio asked a very important question. How does that help people with their retirement benefits? Responsible corporate management is very important for the workers of a company. How much you compensate or how you try to get around the accounting rules or what you do about executive compensation speaks to the manner in which you run a company and manage a company. The employees

have a vested interest in making sure that company succeeds. When it fails and we have this excessive compensation to the corporate executives, it is different than how the rank and file are treated. We should correct that. That is why I said I think we are wasting our time on this resolution and we missed an opportunity because we should have been talking about the issues that would have brought us closer together on the underlying bill and given us a better chance to get a bill to the President's desk.

I do not believe this resolution helps us achieve those objectives. I regret that we are debating this resolution rather than the important issues that we should in regards to protecting workers' rights.

Mr. MATSUI. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. VISCLOSKY), a member of the Committee on Appropriations.

Mr. VISCLOSKY. I thank the gentleman for yielding me this time.

Mr. Speaker, I would open my remarks by stating that as a Member of this House for the last 18 years, I never remember being so tired, tired of doing nothing, tired of not passing an agricultural appropriation bill, tired of not passing a foreign assistance bill in this House, tired of not passing an energy and water bill in this House.

The gentleman from Ohio in his remarks stated before that a number of points as far as corporate compensation needing shareholder approval was not before the body. He was absolutely right, because the gentleman from California (Mr. MATSUI) wanted to make those important questions part of the real debate today and we were prohibited by the leadership under the rule that provided consideration of this resolution from doing it. What did the gentleman from California want to do as far as making sure real American citizens who owned stock can either approve or disapprove outrageous corporate perks?

Let us talk about corporate housing that is provided to executives. In the First Congressional District, I have had thousands of steelworkers lose their jobs. They have had to sell their house. Nobody is providing them any house and voting on it. We have talked about corporate jets and no one being able to vote on that as far as shareholders are concerned. When my steelworkers come out to Washington, D.C., they take a bus. When we talk about shareholders having an opportunity to vote on reimbursement for living expenses, the people I represent have lost their job and they do not have any money to live on. The only thing I do not have a concern about is sporting events, because they have all the time in the world to go to their children's soccer games and Little League games and basketball games because they have lost their job. They have lost their job. And we were not allowed today to vote on that issue and that is wrong.

Mr. ROEMER. Mr. Speaker, I rise in support of strengthening retirement security in America. Congress should act now to clean up executive mismanagement and check corporate greed that is responsible for the loss over $175 billion in pension savings.

In my home state of Indiana, 55 percent of the workforce has pensions. Over the last year, their losses exceed four and a half billion dollars worth of hard-earned retirement savings. Hooisers like all Americans are shocked by reports of corporate executives who played by different rules, who deceived employees about their company's health, and who skimmed billions from corporations heading toward bankruptcy while thousands of workers witnessed their jobs and pensions evaporate.

The House of Representatives had a chance to enact meaningful reform when the Pension Reform Act, H.R. 3762, was considered last April. However, that bill fails to achieve basic protections reforms that most businesses and workers should agree on such as allowing employees to adequately control their own investments in pensions funds. Nor does it provide for investment diversification, employee representation on pension boards, or improved investment advice. For these reasons, I did not support H.R. 3762 when it was considered by the House last April.

As the pension crisis has deteriorated in recent months, CEOs and corporate executives continue to play by different rules than their employees. The law maintains giant loopholes permitting employers to deceive employees about stock sales and conceal stock options and conflicts of interest. Pension funds are supposed to belong to the employees, but they are still denied the ability to say how their funds are managed.

Although I support the intent of this resolution to stimulate further consideration of pension reform legislation. I believe that the House bill could be improved. For example, I offered amendments requiring corporations to notify their employees when stock levels in their pension reforms exceeded designated amounts. This would encourage workers to diversify their accounts in case of sudden and unexpected downturns in their company stock holdings. I also proposed an amendment requiring corporations to communicate to their workers in clear and understandable terminology with regard to pension rules. Unfortunately, the Rules Committee denied consideration of my amendments on the House floor.

Congress should act now to improve a workforce environment where retired workers now struggle to live with dignity after working for so many years while executives take home disproportionately high benefits at the expense of profits earned from employee-contributed pension plans. The current pension reform legislation fails to make corporate executives play fair or by the same set of pension standards as their workers. I therefore urge rejection of this business as usual resolution.

Mr. STARK. Mr. Speaker, today I rise in opposition to both H. Res. 540 and H. Res. 544. We desperately need to pass meaningful pension security reform. But the plan put forward by Republicans flatly does not pass the test. These resolutions simply call for urging the Senate to comply with the Republican's ill-conceived reforms and then make them permanent.

Republicans can chastise the Senate all they want or put hard hats on corporate lobbyists to make people think they're listening to average, everyday American workers. But it won't change the simple fact that Republican pension reform just isn't enough. In fact, these resolutions are so meaningless that they can only be viewed for what they are: a temporary distraction from the real reform the Republicans have failed to deliver.

President Bush has said, that if ''It's okay for the sailor, it ought to be okay for the captain.'' Democrats agree with the President's rhetoric and have taken it a step further in offering a bill—of which I am an original cosponsor—that truly holds corporations accountable. The Republicans simply allow corporate captains to sink their own companies and let workers and investors go down with the ship.

Corporate executives should be required to face the same rules on stock options and deferred compensation plans as apply to rank-and-file employees. The bill that the Democrats propose would provide workers the same rights to buy or sell company stock in their 401(k) plans as corporate executives have in being permitted to buy or sell company stock obtained through stock options.

President Bush claims, ''It is unfair for workers to be denied the ability to sell stock when executives are free to sell stocks . . .'' and again Democrats completely agree. Corporations rarely restrict their executives' capacity to buy and sell stock from stock options, but many corporations restrict their rank-and-file workers from buying and selling the corporation's stock in their 401(k) plans.

Democrats would eliminate this double standard by ensuring that CEOs adhere to the same restrictions as employees in the buying and selling of their company stock. Our bill would impose tax penalties on executives who sell stock acquired from stock options if the sale violates the restrictions rank-and-file employees face in their own 401(k) plans. Executives don't need any more perks than they already receive. But it's high time this Congress listen to the calls of the rank-and-file workers who want their pensions protected from unscrupulous corporate thieves.

The resolutions before us today are an insult to American workers. I urge my colleagues to vote no on H. Res. 540 and H. Res. 544.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 547, the resolution is considered read for amendment and the previous question is ordered on the resolution.

The question is on the resolution.

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

Mr. PORTMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remark and to include extraneous material on the subject of H. Res. 540, the resolution just considered.

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

There was no objection.

EXPRESSING THE SENSE OF THE HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS

Mr. PORTMAN. Mr. Speaker, pursuant to House Resolution 547, I call up the resolution (H. Res. 544) expressing the sense of the House of Representatives on permanency of pension reform provisions, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 544

Whereas increasing pension coverage and pension savings is crucial to retirement security;

Whereas the Economic Growth and Tax Relief Reconciliation Act of 2001 provided significant bipartisan pension reforms that would increase pension savings and increase the number of employees covered by employer pension plans;

Whereas these pension reforms are scheduled to expire after 2010;

Whereas a bipartisan majority of the House of Representatives passed H.R. 4931, the Retirement Security Savings Act of 2002, on June 21, 2002 by a vote of 308–70 to permanently extend these important pension benefits;

Whereas failure to enact H.R. 4931 would significantly impact retirement planning and retirement security by eliminating pension reforms that exist under present law; and

Whereas the Senate has not passed the Retirement Security Savings Act of 2002 or equivalent legislation: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should complete action in the 107th Congress on the Retirement Security Savings Act of 2002 and present such legislation to the President for his signature prior to adjournment so that American workers can be assured that the pension reforms under present law will not be eliminated.

The SPEAKER pro tempore. Pursuant to House Resolution 547, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from California (Mr. MATSUI) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. PORTMAN).

□ 1845

Mr. PORTMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BRADY), a valued member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I thank the gentleman from Ohio for yielding me time and thank him for his leadership in this very bipartisan effort to increase and protect retirement savings.

Let me, as an aside, tell you that retirement security is very important in my district. I have many Enron workers in my district. Many of them are my neighbors who have lost their jobs, lost their whole retirement savings through no fault of their own. Listening to the debate tonight, I continue to be ashamed of those in Congress who continue to try to score political points off the misery of our Enron workers and shareholders.

We have an opportunity, both in urging the Senate to take this bill off their calendar and to help us protect retirement savings, and we have it in this resolution as well, where we are trying to protect improvements that have been made to help people save.

We simply do not save enough in America. For the life of me, I do not know why Washington insists on creating obstacles to savings, punishing people for trying to put money aside for their education or their retirement or for health care, for a rainy day. Under the bill that we passed in a very bipartisan way, we helped remove those obstacles.

Unfortunately, unless we make those incentives permanent, in 10 years we are going to make it harder again for people to save. Without the Senate taking this bill from the calendar, where it has remained for quite some time, too long, the maximum amount that you and I can contribute to our IRA each year will be cut from $5,000 to $2,000, at a time we need it the most. The most that we can contribute to our savings plans at work will be cut almost $5,000, again at a time when inflation adds up and we need those savings the most.

This catch-up provision for people, especially women, who worked at home while others set up their business or worked, who can make catch-up retirement contributions, that will be eliminated. Also the portability, which means when people move from job to job, like a backpack they can take their pension retirement with them easily, that will be erased as well.

So we have added expenses and obstacles and disincentives to savings that simply do not belong there. Congress was wise to remove it. We would be much wiser to make it permanent.

I support this resolution, and anyone who truly cares about savings ought to do the same.

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

Mr. Speaker, it is kind of interesting, because I do not have anybody that wants to speak. This bill is so meaningless, so irrelevant, so worthless, that not one of my colleagues on our side of the aisle wants to speak. I think the other side probably has two or three, probably because they want to say something, I do not know what. But again, this is a resolution that asks the other body to pass a bill that we passed.

Now, under the rules of the institution, of the Congress, after we pass a piece of legislation we enroll it and then we send it over to the other body so they know they can either take action or take no action. If they decide to take no action, then the next logical thing is, maybe you do not want to walk over there, maybe the 5-minute walk takes too long, how about just calling them up and saying, hey, what is wrong with the bill we sent over, because we want to move it. Then maybe you can have a discussion. But, instead, we have to pass a resolution, keep all the staff here; and no one really wants to speak about it.

I will tell you why this is so irrelevant. This is unbelievable. It is so irrelevant because this will not take effect until 2010. This will not take effect until the year 2010, 8 years from now. We are not even going to be around here. Maybe that is why we are doing it now, because we want to make sure our legacy is going to be effective in 2010. This is not going to have any effect, even if it became law, until the year 2010.

Well, let me just say this, if I may, Mr. Speaker, because I do not want to get into the substance too much, but I think it does require a little discussion about the substance. In this proposal that was passed by the House, and is not being passed by the other body and will not take effect, at least the extension of this law, for 8 years, 84 months, 8 years, in this proposal we actually make significant changes in the anti-discrimination law, that is a very technical law, and also the top-heavy rules.

I have a letter dated April 11 when the bill was being considered by the House by Daniel Halperin, who just happens to be a professor of law at Harvard University, an expert on pension law; and he says if this bill is allowed to continue and take effect, at that time it had not taken effect, but it is in effect now, it could allow about 80 percent of the ordinary workers of a company that are non-highly compensated to be excluded from the plan, the pension plan. Eighty percent of the workers could be excluded from the pension plan. You just help the high-level employees.

Then I have a letter from a professor from the University of Alabama named Norman Stein, not a real liberal institution, Alabama; but he indicates that this bill was cobbled together by the pension industry.

Of course, Karen Ferguson, director of a group that makes sure that beneficiaries are adequately taken care of on pension benefits, basically said this bill is really going to do damage to the average worker in America because it is going to create a situation because of the top-heavy rules and anti-discrimination rules where pension benefits are going to be eliminated.

The gentleman from Ohio (Mr. PORTMAN) has said, because I remember the debate he had last time, that, no, what is going on, the reason why Americans are not having more pension benefits is because these rules are too complicated and it does not do enough for the highly compensated employees. So why would a manager, an executive, set up a pension plan if he is not going to benefit?

The reason he does not set up that plan, I say to the gentleman from Ohio,

is because they found a way to get around it. These high-level executives had companies like Arthur Andersen who advised them in tax laws. We know what that is really all about. So what they have done was they set up rules like Ken Lay had in which he was able, without being taxed, to have his deferred compensation placed in an offshore trust account, so that when he finally retired and when Enron went bankrupt and all the employees lost their 401(k) plans, he was able to then get millions of dollars in deferred compensation. So he found a way around dealing with pension benefits. He had a defined benefit plan, and the Enron employees had what is known as a defined contribution plan, subject to the stock market; and they lost everything.

Of course, you have all kinds of gimmicks that insurance companies use, for example the split dollar plan, and we all heard about that, because many folks were worried that was going to be eliminated. So that is another plan that highly compensated employers could engage in.

So they really do not need to set up system-wide plans in companies, because of the fact that they are being taken care of through the Tax Code or through other mechanisms that have been thought through by the Arthur Andersens and all those smart people that know how to deal with tax laws.

What we really should be doing instead of passing meaningless resolutions is really try to deal with the average American's pension benefit. There are only three ways when a person is ready to retire that they think about their retirement. One is personal savings, and we know a great majority of Americans do not have personal savings because they have family responsibilities, kids going to college. So most of the time even families that make $70,000, $80,000 a year, spend that money right away on their families, because those are just necessities. So they do not have any savings, except their house. That is the only thing they have.

Then you have 401(k)s. Because we do not have these defined benefit plans in existence anymore, it is basically 401(k) plans. You saw what happened when the market went down 40 percent the last 18 months, since the President was sworn into office. So that obviously is subject to the economy, and subject to the global economy as well.

Of course, the one thing that at least the Enron employees and the WorldCom employees told me when they came to Washington, they said, ''At least I have my Social Security benefits.'' But we know about Social Security benefits, because the President wants to privatize Social Security. The President wants to make Social Security subject to the stock market.

Well, if the President gets his way and if we do not take action on the 401(k)s, if we do not do something about these highly compensated employers and we extend this law beyond 2010, I think we are going to do major damage to the baby boom population. We have had all kinds of studies in America now that people 45 years and older, they are not going to be ready for retirement. In fact, all they are going to have is maybe $20,000 or $30,000 in their 401(k) plans. If they live another 20 years, that is going to be gone within a couple of years. All they have is Social Security, and that may not be secure if the President is successful in privatizing Social Security.

So I have to ask myself, what are we doing here at 7 o'clock in the evening debating a bill that is meaningless and not taking up some of the real important problems of America? Well, it is because you cannot do it. My colleagues on the other side of the aisle cannot pass these other bills that are really critical to the American public. They cannot deal with the national economy. That is why we are fooling around with meaningless resolutions. That is why I have no colleagues that want to speak on this, because it is meaningless.

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

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

Mr. Speaker, I would suggest that perhaps the reason there are not a lot of people who want to speak in opposition is because this has been a very popular piece of legislation. It passed the House by over 400 votes. Even in the context of the tax cut, which was quite a partisan exercise, it passed with 308 votes. It is good legislation.

I would love the opportunity to address some of the concerns that the gentleman from California (Mr. MATSUI) raised, and I would like to do so in a moment.

Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. WELLER), a valued member of the Committee on Ways and Means, who was instrumental in putting together this legislation, particularly with regard to the very important provisions to help multi-employer plans. There was tremendous complexity surrounding these multi-employer plans. Section 415 needed to be reformed, something that had been talked about for years. Finally, with this legislation we got it done. I hope my colleague will address that.

Mr. WELLER. Mr. Speaker, of course I rise in support of this resolution which, frankly, is very, very important; and I commend the gentleman from Ohio (Mr. PORTMAN) for the leadership he has given on this issue.

You know, if you listen to the rhetoric of my friends on the other side of the aisle, you can see they are, frankly, laying the groundwork for a tax increase. They opposed permanency of the Bush tax cut, they are opposing permanency of the individual provisions, whether marriage penalty or death tax, and even the most popular provision, which, of course, is the pension provisions that we have before us today.

They are opposing it; and, frankly, a vote against this resolution essentially is a vote in favor of a tax increase. As you can see from the rhetoric and their procedural moves that they always take, they are trying to stall, stymie and delay making permanent the Bush tax cuts, because they believe that money can be better spent here in Washington than hardworking Americans can spend it back home. I believe, as I know the majority of my colleagues do, that we should allow working Americans to keep more of what they earn.

Today we are, of course, talking about the opportunity to improve retirement savings. This House passed this with overwhelming bipartisan support. In fact, the Bush tax cut, the final version passed with overwhelming bipartisan support. Unfortunately, it was not permanent; but we passed legislation increasing opportunity for retirement savings, which benefits every American who pays taxes. We increased the opportunity to give a larger amount to your individual retirement accounts, increased that from $2,000 to $5,000. We increased what you can put into your 401(k) from $10,000 to $15,000.

I would note that there are catch-up provisions. People like my sister Pat, who are out of the workforce for a few years, staying home with the kids, the family income is less and they were not able to set aside much or anything for retirement savings. Now they can make a catch-up contribution once they turn 50, which will be a great benefit to stay-at-home moms and empty-nesters. Thanks to the Bush tax cut, that is now law. Unfortunately, it is temporary.

I would also note, as the gentleman from Ohio (Mr. PORTMAN) pointed out, we had an important reform that benefited over 10 million construction workers, building tradesmen and women, all across this country, who benefit from the removal of the caps put in place under section 415, which affects the multi-employer pension funds, which are basically labor union and building trade pension funds. Those artificial caps have been in place for far too long. Thanks to the Bush tax cut, they have been removed. And for a couple like Larry Kohr of Peru, Illinois, and his wife, he saw his take-home pension that he can live on, now that he has retired, essentially double by removing those artificial caps. There is no science and no reason to have them; nobody had just gone back to fix them.

□ 1900

So that section 415 provision, which claims a lot of bipartisan support unfortunately will expire unless we make it permanent.

That is why I was pleased earlier this year that the House of Representatives passed with a vote of 407 Members, the vast majority of Democrats; only a

very small, narrow group of Democrats voted against making permanent this legislation. Unfortunately, the Senate has not yet taken up this legislation. My hope is that the House and Senate can work together in a bipartisan way and make permanent efforts to eliminate that cap on section 415, as well as increase opportunities for retirement savings. So let us really get to what the real issue is here before us.

The question before us today is, do we make permanent the portion of the Bush tax cut which gives increased opportunity for retirement savings, helping construction workers, helping those who have IRAs or 401(k)s, helping empty-nesters or stay-at-home moms do what we all need to do more of, and that is to set aside more for our retirement savings. Think about this: unless we make it permanent, those opportunities go away. That is a tax increase on savings; that is a tax increase on working Americans. This is a simple vote, and that is if you vote ''no,'' you are voting to raise taxes on all those who wish to save for their retirement.

Mr. Speaker, I urge an ''aye'' vote, and I commend the gentleman from Ohio for his resolution before the House.

Mr. MATSUI. Mr. Speaker, it is my understanding that the gentleman from Ohio (Mr. PORTMAN) is the only other speaker on their side, and I am the last speaker, the only speaker on my side, and if the gentleman is, and we can have some understanding that we are going to kind of keep it light and short, I will yield back the balance of my time, with that understanding.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman. I do not know about keeping it light, but we will try to keep it short.

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

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

I guess it has been a helpful discussion. What we are doing here today is we are trying to shed light on the fact that the House-passed legislation, which made these good retirement changes permanent, which the other body chose not to do that; it had to be done on a temporary basis, only for the next 8 years.

We think it is very important for the purposes of planning, and what is more important than retirement planning? It is very important to the person who is planning to have some permanency. It is important to the individual worker. People need to plan for their retirement. It is planning for more than 8 years out. We need to know it is going to be there for the baby boom generation; we need to know that it is going to be permanent changes in law. For the employer, particularly the small employer, who is thinking about getting into the pension business for the first time; only 20 percent of those with 25 or fewer employees now offer pensions. For those people, they need to be able to plan. So not to have this be permanent is bad policy. It makes no sense at all. That is what we are doing today. We are trying to shine some light on this issue so that our friends in the other body will move.

Now, let me just talk a little bit about what this is all about. It is really three general areas: First, allowing everyone to contribute more to their 401(k)s and their IRAs. This could not come at a more important time. The fact that you can contribute another $1,000 into your IRA account this year is very important to people, and they are taking advantage of it. In the first 6 months of this year alone, there has been a 25 percent increase in IRA contributions, and it is needed, and never needed more than now.

With regard to 401(k)s, this year you can put another $500 in, plus a catch-up, as the gentleman from Illinois (Mr. WELLER) talked about, another $500. Over time, another $5,000 and $10,000, up to $15,000. This is extremely important, again. I would like to accelerate that. I would hope that this House will take that up at some point so that we can immediately allow people to put more aside for their retirement. But at a minimum, let us make what we did permanent.

The catch-up provisions are extremely important to the baby boomers. The gentleman from California (Mr. MATSUI) talked about the baby boom generation not being prepared for retirement. It is true. Seventy-five million people have no retirement plan at all, other than what they might have saved in their own personal savings. They have no access to a 401(k), a simple plan, any kind of plan from their employer. We need to help these people.

We therefore said if you are over 50, you get to put in even more into your retirement plan, which is particularly helpful for women who have taken time out from the workforce to raise a family, and now want to come back in and need to be able to put together that nest egg quickly.

The second general area is portability, enabling people to go from job to job in a seamless way to move their retirement savings.

Finally, we permit for simplification of the plan, to help small businesses to be able to offer these plans. The gentleman from California (Mr. MATSUI) actually talked about it earlier, and I was going to get into it. I would ask the gentleman's indulgence, instead of me getting further into that issue, if I could yield some time to the gentleman from Oklahoma (Mr. SULLIVAN), who is now here, to speak on the general issue.

I instead will cut my remarks short, except to say this, and that is that this is all about helping people save more for retirement. This House has passed this on a bipartisan basis, over 400 votes. What we are saying here today is it is time to move to make that permanent so people can plan. It is common sense policy. The Senate has not acted, the House has, the President is ready to sign the bill. Let us move forward.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN) as a final speaker.

Mr. SULLIVAN. Mr. Speaker, today I rise in support of House Resolution 544. As a sponsor of this legislation, I feel it is important for Congress to make permanent the Economic Growth and Tax Reconciliation Act passed into law last year. I would like to thank my distinguished colleagues, the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN), for spending several years crafting this bipartisan legislation.

This measure includes significant pension reforms aimed at modernizing retirement security. The law is scheduled to sunset after December 31, 2010. People throughout the First District of Oklahoma and all across America are restricted in planning for their retirement because of an arcane Senate rule that makes the entire tax relief package, including the retirement savings provisions, expire in just 10 years. Retirement plans are based on rules that need to be consistent over a career, not just 10 years. I do not base my future retirement plans on the next 9 years, so I do not expect to legislate and encourage that standard for my constituents and all Americans. The law, as passed last year, gives employees the additional resources to appropriately plan for their retirement. The act contains many significant provisions that will be extremely beneficial to employees.

First of all, we allowed workers to invest more money into their 401(k) and pension plans, as well as IRAs, from $2,000 to $5,000. Secondly, the House modernized pension laws to meet the challenges of an increasingly mobile workforce that is likely to have several jobs during their career. The resolution also allows workers to become vested in their pension plans faster.

In addition, the measure allows workers age 50 and older to make catch-up contributions, a provision that will significantly help women who are more likely to spend more time away from the workforce.

Finally, the bill modernizes pension laws and provides regulatory relief to encourage more small businesses to offer retirement plans.

Mr. Speaker, I urge my colleagues to adopt this measure.

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

The SPEAKER pro tempore (Mr. LATOURETTE). All time for debate has expired.

Pursuant to House Resolution 547, the resolution is considered read for amendment and the previous question is ordered on the resolution.

The question is on the resolution.

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

Mr. PORTMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed today in the following order: H. Res. 540, by the yeas and nays; and H. Res. 544, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

SENSE OF THE HOUSE THAT CONGRESS SHOULD COMPLETE ACTION ON H.R. 3762, PENSION SECURITY ACT OF 2002

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 540, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 15-minute vote followed by a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 258, nays 152, not voting 22, as follows:

[Roll No. 414]

YEAS—258

Aderholt
Akin
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berkley
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Matheson
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—152

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gephardt
Gonzalez
Harman
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Markey
Matsui
McCarthy (MO)
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—22

Bachus
Bishop
Bonior
Borski
Callahan
Ehrlich
Gutierrez
Hinojosa
LaFalce
Maloney (NY)
Mascara
McDermott
McKinney
Mink
Murtha
Obey
Roukema
Slaughter
Stump
Thompson (CA)
Thurman
Waxman

□ 1932

Mr. DICKS and Mr. LAMPSON changed their vote from ''yea'' to ''nay.''

Messrs. GREEN of Texas, PHELPS, BOYD, and Ms. CARSON of Indiana changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for the next electronic vote.

EXPRESSING THE SENSE OF THE HOUSE ON PERMANENCY OF PENSION REFORM PROVISIONS

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 544, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 291, nays 118, not voting 23, as follows:

[Roll No. 415]

YEAS—291

Aderholt
Akin
Armey
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Brady (PA)
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (TX)

Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meeks (NY)
Mica
Miller, Dan
Miller, Gary
Miller, Jeff
Moore
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Osborne
Ose
Otter
Pallone
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schaffer
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—118

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldwin
Barrett
Becerra
Berman
Berry
Boyd
Brown (FL)
Brown (OH)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Eshoo
Evans
Farr
Filner
Ford
Frank
Gephardt
Gonzalez
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Markey
Matsui
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Mollohan
Nadler
Napolitano
Neal
Oberstar
Olver
Ortiz
Owens
Pastor
Payne
Pelosi
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Sherman
Smith (WA)
Solis
Stark
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weiner
Wexler
Woolsey

NOT VOTING—23

Bachus
Bishop
Bonior
Borski
Callahan
Ehrlich
Greenwood
LaFalce
Maloney (NY)
Mascara
McDermott
McKinney
Mink
Moran (VA)
Murtha
Obey
Oxley
Roukema
Slaughter
Stump
Thompson (CA)
Thurman
Waxman

□ 1944

Ms. JACKSON-LEE of Texas, Ms. MILLENDER-McDONALD, and Ms. BROWN of Florida changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RYAN of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 544, the resolution just agreed to.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 111, CONTINUING APPROPRIATIONS, FISCAL YEAR 2003

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–694) on the resolution (H. Res. 550) providing for consideration of the joint resolution (H.J.Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–695) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2215, 21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–696) on the resolution (H. Res. 552) waiving points of order against the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4600, HELP EFFICIENT, ACCESSIBLE, LOW COST, TIMELY HEALTH CARE (HEALTH) ACT OF 2002

Mr. HASTINGS of Washington (during consideration of the Motion to Instruct on H.R. 3295), from the Committee on Rules, submitted a privileged report (Rept. No. 107–697) on the resolution (H. Res. 553) providing for consideration of the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 3295, HELP AMERICA VOTE ACT OF 2001

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. EDDIE BERNICE JOHNSON of Texas moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 3295 be instructed to take such actions as may be appropriate to ensure that a conference report is filed on the bill prior to October 1, 2002.

□ 1945

The SPEAKER pro tempore (Mr. PENCE). Pursuant to clause 7 of rule XXII, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and the gentleman from Ohio (Mr. NEY) each will control 30 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

This motion instructs the conferees on H.R. 3295, the Help America Vote Act, to complete their work and file a conference report prior to October 1, 2002.

Mr. Speaker, less than a week ago I joined a number of Members at this podium and recounted how allegations of voter intimidation, inaccurate voter registration lists, arbitrary ballot counting standards, and antiquated machinery deprived so many citizens of their right to vote and have their vote counted during the 2000 election.

Recent primary elections in Florida and elsewhere have only confirmed that the problems of 2000 will not go away until we pass and enact meaningful election reform legislation reform standards, and we must also provide State and local authorities with resources to improve their election systems from top to bottom.

It is really very simple, and so I ask how many times do we have to come to this podium and plead for reform.

I am here to tell my colleagues that we will come before them I guess as many times as it takes. This is a number one priority for the Congressional Black Caucus because we believe so strongly in democracy, and this is the crux of democracy. There is no democracy when we shut out the first amendment right and not allow people to cast their votes that are eligible and have those votes counted.

So we cannot be silenced until this body answers the call for election reform. We in Congress have within our power, indeed almost within our very grasp, legislation that will take giant strides to remedy the disenfranchisement of the last election. It has not been an easy fight to get where we are today, but we are just inches away from the comprehensive legislation that will secure the constitutional right to vote for millions of Americans. We must pass this bill, and we must send it to the President for his signature before another day passes.

I am proud to say that in the fight for election reform we have had many foot soldiers. I want to thank the gentleman from Maryland (Mr. HOYER), who has been battling every day since the 2000 elections to extend these important protections to all of our Nation's voters. His leadership is getting us to where we are today on this legislation. It has been limitless, and I thank him for everything he has done.

In that same spirit, I must also thank the gentleman from Ohio (Mr. NEY) for his hard work in helping us bridge the differences between the two bills. Indeed, I believe that all members of the conference committee deserve our gratitude for their work on this challenging task.

We also have had the terrific support from our colleagues from the other Chamber, and I would like to especially commend the efforts of Senator CHRISTOPHER DODD, who has worked alongside the caucus and the civil rights communities to make certain that the issues we care about most deeply are being addressed in the final bill.

Finally, I must thank my colleagues in the Congressional Black Caucus and, in particular, the gentleman from Michigan (Mr. CONYERS) and the gentlewoman from California (Ms. WATERS) for working tirelessly. We have invested so much energy and so much passion in seeing the goal of making every vote count realized, and now I salute all of the people who have remained steadfast.

As many of my colleagues know, the CBC has been holding hearings and forums and speaking out continuously for the past 21 months on this issue. I believe when it comes to election reform, yet again, we have served as the conscience of the Congress.

Soon after the Supreme Court announced its decision on Bush v. Gore, the caucus resolved to develop legislation that addressed these spectacular failures in the 2000 election. We resolved to make that legislation our number one priority.

We fought hard to get the Help America Vote Act introduced and passed by the House of Representatives, and we worked with the Senate to make sure that the protections they passed were even stronger than those contained in our bill.

Mr. Speaker, these bills are not far apart and we cannot reconcile them. This is why I stand here before my colleagues today to encourage conferees to complete their work and send us a bill that can be signed into law.

We also know that the legislation before the conferees is not perfect. I do not think I have ever seen a perfect bill, but it is a tremendous first step toward meaningful reform. The legislation will help protect and secure an electoral system in which all Americans are able to register as voters, remain on the rolls once registered, and vote free from harassment.

Mr. Speaker, our democracy begins and ends with the fundamental right to vote. Congress must act immediately to ensure that every American has the right to vote and to have their votes counted.

Time is running out for the 107th Congress. We have come so close to the compromise, and the price for not passing election reform is far too high. It is imperative that the conference committee finish their hard work and come to an agreement before October 1 because we cannot afford to let this opportunity slip away.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members that it is not in order to cast reflections on the Senate; that it is not in order to refer to a Senator except as provided in clause 1 of rule XVII.

Mr. NEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I stand tonight applauding the efforts of our colleague, the gentlewoman from Texas; and I stand to support this motion to instruct. As we like to say around here, work, work, and we mean it this time on this. It is a good thing to do.

The Help America Vote Act could not be here if it were not for my colleague from Maryland (Mr. HOYER) and all the other Members on both sides of the aisle that supported this measure. It is a crucial measure. It is important to every citizen in the United States, and the conference committee has to continue to communicate, communicate with the advocacy groups, local election officials, everybody who has this bill near and dear to their heart.

I commend the gentlewoman from Texas, all of those who have worked so hard for this bill. We cannot lose this bill. We have to continue to work. I know we are running out of time, but I am sure that many minds can come together and can produce a product that we are going to be proud of long after we are not serving in this body.

The Help America Vote Act is good for the Nation. I fully support the gentlewoman's motion to instruct.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER).

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

I want to congratulate her and thank her for the extraordinary job that she has done over the last 18 months on this particular issue. She has been tireless in her efforts to promote the assurance that every American not only has the right to vote but that every American will have their vote counted correctly.

I also want to mention two of my very good friends and colleagues on the floor, the gentlewoman from Florida (Ms. BROWN) and the gentlewoman from Florida (Mrs. MEEK), two members from Florida who firsthand experienced and their constituents experienced the difficulties of voting in November of 2000.

I also want to recognize the gentleman from Ohio (Mr. NEY), our chairman, who has done such an outstanding job getting us to this point. Without his measured and effective leadership, we would not be where we are.

I want to go back to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) because as chairwoman of the Congressional Black Caucus and vice chair of the Democratic Caucus Special Committee on Election Reform she has tirelessly advocated that the 107th Congress keep its eye on the prize and pass meaningful, comprehensive election reform.

Mr. Speaker, in only 42 days this Nation will hold its first Federal election since November 2000. Nobody can predict with certainty how smoothly those elections will go. Certainly we experienced a primary in Florida that did not go well. After almost 2 years, studying what went wrong in November 2000, I am convinced that confidence in this Nation's election system will not be restored until this Congress

enacts meaningful national standards and offers State and local authorities the resources to improve their election infrastructure.

I am pleased to report, as the chairman has said, that Congress is on the threshold of doing just that, thanks in large measure to my colleague and good friend from Ohio (Mr. NEY), whom I have already mentioned. We are closer than ever to enacting the most comprehensive package of voting reforms since the Voting Rights Act of 1965, reforms that will require States to offer provisional ballots to all voters; reforms that will require States to maintain state-wide computerized registration lists to ensure the most accurate, up-to-date rolls and minimize the number of voters who are incorrectly removed from the rolls; reform that will reward States for retiring obsolete voting machines, especially the notorious punch card machines and their dangling chads; reforms that will require voting systems to be accessible to all individuals with disabilities, including nonvisual accessibility for the blind; reforms that will allow voters to review and correct their ballots before they are ultimately cast. We call that second-chance voting. Every voter ought to be assured that their vote is correctly cast and will be accurately counted.

Reform that does not weaken, let me reiterate this, reforms that do not weaken any existing voting rights laws and includes meaningful enforcement; reform that ensures military and civilian voters who live and work overseas are able to vote and have their vote counted.

Mr. Speaker, this motion is intended to ensure that we on the conference committee complete our work prior to October 1, 2002. Given the extraordinary progress the conference committee has made in the past 14 days, there is no legitimate reason we cannot meet that deadline. I know the chairman shares my view on that. Indeed, given the larger context in which we operate, I would submit that this Congress has a moral responsibility and obligation to enact election reform before we adjourn the 107th Congress.

Mr. Speaker, over the last year, this country has committed vast resources to ridding the world of those who would employ the tools of terror to destroy systems of government that derive their legitimacy from the ballot box. In just the past few weeks, we in Congress have been challenged to contemplate the use of overwhelming military might to bring to heel one of the great despots of the past 50 years, a figure whose utter contempt for democracy and the people he rules is the only reason he has held power for so long.

□ 2000

As we consider such profound measures to extend democracy where it does not now exist and strengthen it where it is fragile, we have an urgent, moral responsibility to do the same at home. I urge adoption of this motion. I congratulate the chairman for his support of this motion and last week's motion to urge us to complete our work. This motion is timely. Passage is late, but it is never too late to do the right thing.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. BROWN).

Ms. BROWN of Florida. Mr. Speaker, today, September 24, I stand before this body in our Nation's Capitol, nearly 2 years after the Supreme Court selected the President of the United States. To this day nothing has been done, while the American people wait and wait. No new laws have been signed. No agreements have been reached to correct the 2000 election problems.

In fact, the Bush administration clearly shows that election reform is not a part of their agenda. Immediately after the 2000 election, the only legislative item that was brought up has been tax cuts, tax cuts, tax cuts. It does matter who is in charge. I heard one of the committee chairmen on television discussing Congress giving war powers to the President, and he said over and over again, over and over again, the President is the only person that is elected by all of the people.

Time out. Did I miss something? Over 500,000 Americans voted for Al Gore. Al Gore, not George W. Bush. The Supreme Court decided on a 5–4 decision that George W. Bush would be the President, and to date nothing has been done to correct it.

Let me tell Members about Florida. With 16 million people, Florida spent just $32 million for election reform efforts. Just to the north of us, Georgia, with 8 million, spent $54 million. In an effort to distract the American public from issues like election reform, health care and prescription drug coverage, which was promised to our seniors, in the middle of a mid-term election we are distracted by a war. I think the American people need to weigh in; and if we want to take the questions about the election out, then we need to pass a bill and move forward with election reform.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK).

Mrs. MEEK of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time, the chairman of the Congressional Black Caucus.

Mr. Speaker, I rise in strong support of the motion to instruct the election reform conferees to produce a conference report and produce it as soon as possible. Election reform is long overdue. We continually come to this podium and stress the importance of election reform, but no one seems to be listening. That is, those people who are in the leadership are not listening. If they were, election reform would have come to the floor many, many months ago.

How many more voting catastrophes like the week before last in Florida will be required for this Congress to get the message that our people need real election reform, and they need it now? I am just wondering how many more catastrophes must happen.

I do not have enough time to detail all of the many problems that are wrong with elections in this country, not only in south Florida, but manifested much more strongly in south Florida. I have read the same newspaper and magazine accounts that other Members have read, suggesting that election reform conferees have not yet been able to work out their differences. I do not see why there should be so many differences in a right that the Constitution gives each of us. It is perplexing to me, and it appears that election reform may be dead for this particular session just because of this kind of treatment.

This outcome is absolutely unacceptable. It is unacceptable to the people of the United States of America that we as a Congress cannot pass an election reform bill. We can send it to the President for his signature before this session ends. That is extremely important, Mr. Speaker. The voting of the last 2 weeks revealed the many problems that plagued the 2000 Presidential election. Why does it take so long to get the idea? So we are back again. It is a nightmare.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me add my appreciation to the conferees on the House side, and particularly the gentleman from Maryland (Mr. HOYER) and the gentleman from Ohio (Mr. NEY) for the diligent work that they have offered. Let me also acknowledge and give appreciation to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), the Chair of the Congressional Black Caucus, and someone who has captured the essence of the vitality of this legislation by pushing and encouraging its passage.

I rise to support this motion to instruct, particularly on the basis of the hard work of the gentlewoman from Florida (Ms. BROWN) and the gentlewoman from Florida (Mrs. MEEK) and the gentleman from Florida (Mr. HASTINGS), as well as the Democratic Task Force which I had an opportunity to participate in. I say that because we have seen around the country in every place that we have gone hearings that have indicated the great need for election reform.

The work that was done in the Committee on the Judiciary, of which I am

a member, headed by the legislative initiative of the gentleman from Michigan (Mr. CONYERS), the ranking member, captured the ailments, the illness of the election system and tried to put together a legislative initiative that was encompassing, that was embracing, that answered the questions about the many horror stories we heard in November 2000: individuals turned away; intimidation at the polls; people who registered to vote and yet were turned away. It is imperative before we go into the Federal elections that we come together in a consensus and pass election reform.

I do feel that the House conferees have been working together in moving toward final passage, and I believe the other body has the same amount of focus. It is now time to set a time frame for us and not let this legislation die in this session. I do not believe anyone desires it to do so. I believe the American people want to see election reform.

Mr. Speaker, after 9–11 when we have all recommitted ourselves to the values of this Nation, the values of democracy and freedom and equality and the right to speak one's mind, it would be a tribute to again reinforce our values by passing such a legislative initiative as election reform.

Mr. NEY. Mr. Speaker, who has the right to close?

The SPEAKER pro tempore (Mr. PUTNAM). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) has the right to close.

Mr. NEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this is an important motion to instruct. I appreciate the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for her insight and her input into this process. All of the speakers that participated tonight have added greatly to the process. This is an important measure. America needs it, and I appreciate this motion to instruct because it will give us an additional push and say this is the sense of the House. I urge all of my colleagues on this side of the aisle to support the motion to instruct.

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have heard some powerful words this evening from my colleagues on how important it is that Congress pass election reform legislation, and pass it quickly. Although it will not affect the November elections, they are approaching and there simply is no time to waste.

As we all know, the most fundamental issue facing all of us during this Congress is restoring the public's faith in democracy. To restore that faith in democracy, we must make sure that every vote cast is counted. We have said repeatedly that we have been attacked because of the jealously of our freedom. We must make that freedom real, and the only way we can do that is to make sure that every vote cast is counted and is cast without intimidation.

The legislation we have passed will take important steps toward protecting the sacred right to vote. It is time that we take action. House and Senate conferees have come so close to a compromise on H.R. 3295 and now they must finish the job. I call upon members of the conference committee to reach agreement before October 1 and submit the legislation to us for final passage. I am in strong support of this motion to instruct.

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

The SPEAKER pro tempore. All time for debate on the motion to instruct has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each:

□ 2015

The SPEAKER pro tempore (Mr. PUTNAM). Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

(Mr. WELDON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HINOJOSA) is recognized for 5 minutes.

(Mr. HINOJOSA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

JUDICIAL CODE OF CONDUCT PRIVACY CLARIFICATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. BIGGERT) is recognized for 5 minutes.

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I rise today to join my colleague the gentlewoman from New York (Mrs. MALONEY) in introducing the Judicial Code of Conduct Privacy Clarification Act. As the title suggests, this bill would clarify a provision in title V of the Gramm-Leach-Bliley Act that deals with privacy protections for consumers.

Gramm-Leach-Bliley was landmark legislation that for the first time permitted companies to engage in banking, insurance and securities transactions simultaneously. While considering these new freedoms for businesses to operate across lines, Congress also wanted to ensure that consumer privacy would not be placed at risk.

Title V sought to address this issue by giving regulators latitude to enforce privacy provisions among financial institutions. Unfortunately in interpreting the language of the law, some confusion has arisen over what specifically those financial institutions might be. In seeking to clarify the confusion, the Federal Trade Commission concluded that financial institutions include any business that, and I quote, significantly engages in financial activities. What is the definition of ''significantly''? Well, it could be as little as once a year. And what is a financial activity? There are four: debt collecting, financial advisory activities, tax planning preparation and advising, and leasing real or personal property.

Okay, that is fair enough. But in writing its regulations in this way, the Federal Trade Commission appears to have unintentionally swept under its umbrella the one group of professionals that already is governed by the strictest possible confidentiality or privacy

regulations. What group is this? Attorneys.

Attorneys already are bound by a duty of confidentiality enforceable under the laws of all 50 States that prevents misuse of client information and provides a higher degree of privacy than Gramm-Leach-Bliley. For example, lawyers in my home State of Illinois are prohibited from releasing confidential information. Our code reads, ''Except in certain specified circumstances, a lawyer shall not, during or after termination of the professional relationship with the client, use or reveal a confidence or secret of the client known to the lawyer unless the client consents after disclosure.''

And Illinois is no exception. All 50 States have equally restrictive language. In all 50 States, lawyers who violate these laws face disbarment and/or other penalties that are much more onerous than those for a violation of title V under Gramm-Leach-Bliley.

Do attorneys significantly engage in financial activities as defined by the FTC? Yes. Some attorneys do give tax planning advice. Others may handle debt collection cases. Still others may take up cases relating to the other two named financial activities, providing financial advice or leasing real or personal property. Yet in order to comply with the privacy provisions under Gramm-Leach-Bliley, these attorneys now run the risk of violating the client confidentiality restrictions placed on their profession.

Every attorney who engages in any of the four defined financial activities for a noncorporate client must mail to that client a privacy notice, every year for as long as he or she is in business. And what does that privacy notice convey? It informs clients that they may direct their attorney not to share their personal information with other entities, the so-called opt-out provision of Gramm-Leach-Bliley. Yet the attorney-client confidentiality relationship is by nature an opt-in protection. In short, for attorneys, the very act of disclosing a privacy policy can create a confidentiality violation.

It was not the intent of Congress to regulate attorney-client relations. Our intent was to regulate the growing use and sale of consumers' personal information for marketing, profiling and other commercial purposes by bona fide financial institutions. At the end of the day, our bill will make the intention of the Gramm-Leach-Bliley Act crystal clear. The scope of the law was not intended to include law firms and sole practicing lawyers.

I urge my colleagues to support this legislation.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in support of legislation that I am introducing with my colleague JUDY BIGGERT of Illinois, the Judicial Code of Conduct Privacy Clarification Act. This legislation resolves the continuing controversy as to whether attorneys at law, who are subject to strict codes of professional conduct, should be subject to the privacy section of the Gramm-Leach-Bliley Act. The Biggert-Maloney legislation recognizes that the practice of law and the business of financial services are wholly different and that Gramm-Leach-Bliley should be clarified to recognize this distinction.

Protecting personal privacy should be one of the highest priorities of Congress. Whether online, over the phone or in person, I believe that individuals should be allowed the maximum control over information they supply to financial services and other companies.

With passage of Gramm-Leach-Bliley in 1999, Congress took a small first step in ensuring that consumer privacy is protected as financial institutions continue to merge and as the economy grows increasingly digital. As a member of the then-Banking Committee, I was proud to play a role in requiring that financial services companies supply their customers with privacy policies and allow customers the right to opt-out of information sharing with third-parties. These were groundbreaking provisions that future Congresses should work to expand.

Unfortunately, since enactment, Gramm-Leach-Bliley has caused significant confusion for the legal community. On February 11, 2002, I joined 12 of my bipartisan colleagues on the Financial Services Committee in writing to the Federal Trade Commission (FTC) to ask that it grant attorneys an exemption to the Gramm-Leach-Bliley privacy provisions. As we wrote at the time, ''Attorneys are already bound by a duty of confidentiality, enforceable under the laws of all 50 states, that prevents misuse of client information and provides a higher degree of privacy protection than Gramm-Leach-Bliley.'' After a thorough review, the FTC determined that it does not presently have the authority to grant the exemption we requested.

The privacy protections in Title V of Gramm-Leach-Bliley were a response to specific cases where consumers' private, personal financial information was mined without their consent in an effort to market them products. Where Title V is an appropriate response to such egregious cases, it is inappropriate to apply it to most lawyers whose clients already expect that all their disclosures are confidential, covered by State codes of ethics and attorney-client privilege.

For example, the Legal Aid Society of New York City had to translate its privacy notice into many different languages to serve its ethnically diverse clientele. It also had to devote an inordinate amount of time to dealing with confused clients who couldn't understand why they were getting privacy notices from their lawyers when everything they tell their lawyers is presumed to be confidential. I fear this could have a chilling effect on the willingness of these individuals to share critical information with their attorneys. The confusion these privacy notices are causing in New York is unnecessary given that there is express language forbidding the sharing of client information in the New York State Ethics Code for lawyers.

I join Representative BIGGERT in introducing this legislation today because it is my intention to target this limited area where the interpretation of Gramm-Leach-Bliley can be improved by a legislative fix. The FTC's standing interpretation of Title V of the Act is causing confusion that is determined to the attorney-client relationship. It is appropriate for Congress to intervene. I have met with numerous constituents from New York City on this issue and am convinced that attorneys should not fall under the existing language. I do understand that it is late in the congressional session and I invite interested parties to work with me to improve the legislation in the coming year.

I look forward to continuing to work to safeguard the privacy of my constituents in the coming Congress. I emphatically do not support any rollback of the progress that has been made on privacy. This legislation is limited and strictly targeted. As for the larger privacy issues—the American public deserves more privacy protections, not fewer.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IRAQ AND THE WAR ON TERRORISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GRUCCI) is recognized for 5 minutes.

Mr. GRUCCI. Mr. Speaker, on September 20, 2001, before a joint session of Congress, President Bush declared, and I quote, our war on terror begins with al Qaeda but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated. This principle rallied the world to support the war on terrorism. Today, we must remind ourselves of this principle as America considers action against Iraq. We must remember that the actions of Saddam Hussein are nothing short of terrorism. Until he is removed from a position of power and influence, Americans will not be safe and the war on terrorism will not be won.

On September 16, 2002, Iraq delivered a letter to the United Nations allowing U.N. weapons inspectors unconditional access to Iraq. While the recent letter from Iraq may be received as good news by some, it is important to place this action in the appropriate historical perspective.

A quick reminder of 1998 when Saddam Hussein forced weapons inspectors out of Iraq is enough to understand that the latest move is nothing more than theatrics that will only give Iraq additional time to stockpile and hide weapons of mass destruction to avoid detection.

In May of 1991, Iraq accepted United Nations resolution 687, giving inspectors unconditional access to Iraq. In the years that followed, Iraq contradicted their unconditional pledge to support resolution 687 with the following actions:

June of 1991, Iraqi personnel prevent inspectors from approaching by firing warning shots.

October of 1991, Iraq refuses to accept United Nations resolution 715 calling for additional unconditional access for inspectors.

February of 1992, Iraq refuses to allow the destruction of certain facilities used in weapons programs.

April of 1992, Iraq calls for the end of surveillance flights and threatens the safety of pilots.

June of 1993, Iraq refuses to allow remote controlled monitoring cameras at two missile engine sites.

March of 1996, Iraq refuses access to five inspection sites designated for inspection.

June of 1996, Iraq denies access to sites under investigation.

June of 1996, Iraq denies access to another inspection team.

November of 1996, Iraq refuses to allow inspectors to remove missile remnants for analysis.

June of 1997, Iraqi personnel attempt to physically prevent a helicopter pilot from flying to inspection areas.

June of 1997, Iraq denies access to inspection sites.

September of 1997, an Iraqi officer attacks inspectors photographing unauthorized movements of Iraqi vehicles.

August of 1998, Iraq announces that they will refuse to agree to any United Nations resolutions until the oil embargo is lifted.

In fact, Iraq has violated 16 United Nations resolutions and sanctions. Sadly, I believe that future inspections will once again be met with blatant defiance and further problems.

Removing Saddam's weapons of mass destruction will only occur when we remove Saddam Hussein. Just in the last several days, Iraq stated that it will not accept any new United Nations resolutions. Furthermore, Iraqi officials have already started adding conditions to their allowance of unconditional access.

We must not allow ourselves to be led down that same path of noncooperation that Iraq has led the world down in the past. We do not need to look beyond Iraqi defectors, many from within Saddam's nuclear program, to learn that Saddam Hussein is dangerously close to obtaining nuclear weapons and has advanced considerably in his biological and chemical weapons programs. I do not believe that we should have to wait for another United States city to be devastated, a military base to be targeted or even to be attacked in order to respond to the threat of Saddam Hussein. Every minute we delay only brings this enormous threat closer to reality.

Mr. Speaker, I applaud the President's actions to come to the Congress and seek the Congress's approval. As freedom-loving nations continue to eliminate international terrorism, this war will not end until every terrorist group of global reach has been found, stopped and defeated.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

(Mr. KUCINICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PAUL ESPINOSA RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. DAVIS) is recognized for 5 minutes.

Mrs. DAVIS of California. Mr. Speaker, I rise today in strong support of my resolution recognizing the contributions of my constituent from San Diego, Paul Espinosa, to both the Latino and the arts community. A few years ago, a study conducted by a leading Latino nonprofit concluded that representation of Hispanics in mainstream network television decreased during the last 30 years. The few roles that were held by Latinos often depicted them as criminals, maids or gardeners. Paul Espinosa observed this disturbing trend 20 years ago and dedicated himself to making documentaries and films about Hispanic Americans. He applied his academic background in anthropology to media and developed textured depictions of Hispanics.

The results have made Paul Espinosa one of the country's most respected and recognized documentary filmmakers. His works, to name a few, include the Lemon Grove Incident, the Hunt for Pancho Villa, and the Earth did not swallow him, Uneasy Neighbors, and The Border. The characters and experiences in his films are as diverse as the Latino community itself. He chronicled the story of a controversial 19th century New Mexico priest, the defining summer in a young migrant boy's life, and the actions of parents in Lemon Grove, California fighting for their children's education. Through these films, Paul Espinosa shows that Latinos possess a complex and dignified history. These previously untold stories examine the social issues surrounding the protagonists and provide a history lesson for all their viewers.

Many consider Paul Espinosa's films catalysts for important cultural dialogue. These films are so highly regarded that they have become the basis for film festivals bearing his name in Texas and California. Academia has also recognized Paul Espinosa's films for their contributions to education. Various high schools and universities include some of his films in their curriculum. Paul Espinosa, who holds a B.A. from Brown University and a Ph.D. from Stanford University, was named a Regents Lecturer at the University of California San Diego in 2000 and is frequently asked to lecture at numerous universities on his films.

Besides his work as a filmmaker, Paul Espinosa is a media arts activist. He is strongly dedicated to enabling an upcoming generation of filmmakers. His involvement with the Media Arts Center of San Diego and the Association of Independent Video and Filmmakers speaks to his commitment to support aspiring media artists and increase the visibility of traditionally underrepresented groups.

One of the Media Art Center's most promising initiatives is the Teen Producer's Project. It teaches young people artistic and analytical skills by emphasizing effective communication through the use of digital video, interpersonal skills and creative writing.

Paul Espinosa has defined his career by making films that tell a meaningful story. His films have spurred discussion and challenged its viewers to reexamine their perceptions of Hispanic Americans.

I hope you, Mr. Speaker, and all of my colleagues will join me in honoring this community artist, his accomplishments in the media arts and his triumphs for the Latino community.

□ 2030

MAKING AMERICA INDEPENDENT OF MIDDLE EASTERN OIL

The SPEAKER pro tempore (Mr. PUTNAM). Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

Mr. TIERNEY. Mr. Speaker, there has been much debate on how the United States should proceed with Iraq. I rise to draw attention to an issue that is critical to this decision-making process.

As we debate how and whether to take military action in Iraq, I should hope that we could all agree to take economic action against Saddam Hussein. Now, it is clear that the United States is overly dependent on foreign oil. The United States presently imports 48 percent of the 19.7 million barrels of oil it consumes each day. Of that total, approximately half a million barrels come from Iraq.

Now is the opportunity to pursue a policy of making America independent of Middle Eastern oil. To do this, we have to aggressively pursue new technologies and development of renewable energy, biomass, geothermal, hydropower, solar and wind. A renewed effort toward policies that encourage reduced reliance on fossil fuels and more secure sources of dependable energy would mean the creation of jobs that would strengthen our economy and better serve our national interests.

Now is the precise moment for the United States to shed its dependency on any Iraqi oil and work toward a future when our domestic energy policy plays a role in how we implement strategic initiatives.

Already we are told that Saddam Hussein does not use the proceeds from the sale of oil to feed his population or to provide medical needs for his people. We are told instead that the profits

from these sales are going to his own personal needs, to his aggrandizement with palaces and other monuments that he builds to himself, and to embellishing his Republican Guard. Especially if that is the case, then we ought to be talking about not buying Iraqi oil so that he has the proceeds with which to act in that manner, and we ought to be talking about convincing our allies in the international community to do the same.

This will not be easy, but the fact of the matter is we have a capable State Department and a capable Secretary of State who ought to go about the hard work of working diplomatically to convince our international community that that is one way to enforce inspections and enforce disarmament, one tool to use to get the attention of Saddam Hussein, knowing there is a hammer at the other end that can be effective, and we ought to do it.

In the long range, we ought to make sure that we have an energy policy in place that allows us not only to back off of any use of Iraqi oil, but to eventually overcome any need to rely on Middle Eastern oil. It is a relatively small portion of the fossil fuel that we use in this country; and over a period of a reasonable number of years, a concerted and wise energy policy will allow us to strategically pull out of that area and resolve many of the crises we may have in the future dealing with Middle Eastern problems and situations, politically and otherwise.

Mr. Speaker, I think that this is a policy that would be wise. I think we have international resolutions for inspections and disarmament that need international enforcement. We ought to call upon the United Nations to do everything in its power to work within the international community to make sure that they in fact enforce those resolutions and have inspections and make sure that we have disarmament in Iraq.

But that is hard work, as I said before; and it is not as easy sometimes as taking an overpowering military force and attacking. But there is no imminency to any attack on the interests of the United States at this time, and we have an international body and we have an international means to act; and we have the time to do that and try that. We should exhaust all avenues before going to the extreme avenue of an unprovoked, in the sense of any action against the United States directly, action. We should make sure that we use our resources, work within the international community, understand that we can embargo oil to Iraq as an opening step, and get our allies to do the same as a way of enforcing provisions for inspections and disarmament. We ought to move in that direction.

Mr. Speaker, I hope that we can get some agreement on this, and I hope that we can work within the international community to do just that.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

(Mr. UNDERWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

OPTIONS WITH REGARD TO IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, the rush to war continues here in Washington, despite the possibility of the reinstatement of effective, unfettered inspections aimed at the destruction of weapons of mass destruction that Saddam Hussein may have hidden from past inspections or may have developed since that time.

Now, Prime Minister Tony Blair, as a surrogate for this administration, did provide a more concrete and detailed report than anything provided by the Bush administration to the United States Congress thus far on what is going on in Iraq. But the interesting thing is, in reading through the 50-some odd pages of this report and perusing the photographs, the actual conclusion is that inspections did work, U.N. sanctions did work, and are still working. The containment and deterrence doctrine has worked with Saddam Hussein.

In fact, the previous program before the inspectors left was extraordinarily successful, more so than would be admitted by this administration, that is very dismissive about the possibility of going back in with intrusive, unfettered inspections with a mandate to destroy any weapons of mass destruction that this miscreant may have managed to develop.

I will read a few quotes from Prime Minister Blair's report. He talks about their attempts to obtain nuclear weapons: ''In August 1990, Iraq instigated a crash program to develop a single nuclear weapon within a year. By the time of the Gulf War, the crash program had made little progress.''

They go on to say that ''UNSCOM had totally dismantled the physical infrastructure of the Iraqi nuclear weapons program, including the dedicated facilities and equipment for uranium separation and enrichment, and for weapon development and production, and removed the remaining highly enriched uranium.''

It is hard to reconcile that with the assertions that intrusive inspections under the auspices of the U.N. will have no impact on Saddam Hussein or his attempts to obtain weapons of mass destruction.

In early 2002, the British intelligence judged that while sanctions remained effective, Iraq will not be able to produce nuclear weapons. That is on page 27 of the justification given by the Prime Minister of Britain for a preemptive war against Iraq. He cannot build or obtain nuclear weapons, according to British intelligence, as long as the sanctions remain in effect, and that is without intrusive inspections backed by the full force of the United States and around the world.

There are many other passages. This is incredibly instructive reading. I would recommend it to my colleagues in Congress. It is certainly more detailed than anything provided to this Congress, either in classified briefings or outside of classified briefings, and certainly more detailed than anything provided to the American public, NATO or anybody else by the United States, and the British have done us a service.

But the case they make is the opposite of the conclusion of their Prime Minister. The case that is strongly made here is that a return to the regime of an intrusive, unfettered weapons inspection and destruction program would effectively preclude this dictator from ever obtaining weapons with which he could threaten other countries in that region, and most certainly the United States of America.

So this, to me, certainly demonstrates that the rush to war, the first preemptive war in the history of the United States, the first preemptive war since the horrible destruction of World War II and the U.N. and the agreements we have reached since then, breaking with all precedent, the United States, in some bizarre version of ''Minority Report,'' the movie, will decide that we have people in the administration who can determine whether or not someone presents a real and present threat to the United States, even if they made no threats, even if there is no documentation of them having the capabilities on carrying out on the threats they have not made; and we, the United States of America, should be able, in violation of all international law and all precedents of our Nation, be able to preemptively attack and destroy that country for the purposes of regime change, because we do not like who is running that country.

Well, there are a lot of brutal dictators around the world running a lot of countries I do not like, including Saddam Hussein; and I would support democratic efforts and subversion efforts and any other way to get those people out of power. But a war that opens the door to worldwide conflicts, to Taiwan and China, India and Pakistan and any other host of countries, is an incredibly dangerous precedent, and this report from the Prime Minister to his Parliament documents that it is not necessary. We have an effective option before us.

ENERGY AND THE POTENTIAL FOR WAR IN THE MIDDLE EAST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes as the designee of the minority leader.

Mr. BLUMENAUER. Mr. Speaker, I rise to address the House this evening, as we have had speakers here earlier, focusing on issues of energy and the potential for war in the Middle East.

I think it is appropriate that these two issues are in fact before us, because oil and the Middle East are linked in the minds of the public; and, in fact, I think any credible observer would agree that in fact they are linked in fact.

Tonight, as one reflects on the status of the potential growing cloud of war in the Middle East as we are dealing in this country with issues that relate as we speak now, there is a conference that has been meeting in terms of the energy policy. I think it is appropriate for us to step back and reflect on the status of what this Congress has done in the course of the last year to deal meaningfully with energy policy.

It is something that in and of itself is important for us to focus on, but it would seem that in the aftermath of the horrible attacks of September 11 of last year, the rising tensions in the Middle East, the pressures that took place as we moved into Afghanistan, what we have seen in terms of the potential problems with oil that is concentrated in terms of the 50 percent or more that comes to the United States from foreign sources, that there would be a sense of urgency about that discussion.

Americans want and deserve a national energy policy that ensures safe, affordable and clean energy. One must only be disappointed by the lack of leadership and urgency that we have seen with the administration, and, sad to say, here in Congress, to reduce our dependence on foreign oil, to say nothing about reducing the impact of the pollution that is associated with that dependence.

We have now been working on an energy bill for almost 2 years; and the plan that has come forward from the House does not even employ simple steps to reduce the demand for oil that years of study have demonstrated beyond question are necessary and in fact will work.

Sadly, this is in the midst of the economic challenges that we face as we have seen the promise of fiscal stability go out the window. In my State of Oregon we have consistently in the course of over the last year and a half had among the highest unemployment rates in the country.

It was less than a year and a half ago when we heard from the President that we could in fact embark upon a massive tax cut because we were going to have over $5 trillion in surplus; and, in fact, it was alleged that one of the real problems we were facing as a Nation was the possibility that we would be paying off the national debt so rapidly that we would not have safe investment instruments.

Well, we have dodged that bullet. We have not just a tight budget, but we have deficits now for as long as the eye can see. We are going to be borrowing between 100 billion and $200 billion of Social Security trust funds. One only hears faintly the echo of the lockbox that people were going to set aside these monies, and we are looking at a significant long-term structural deficit.

□ 2045

But in the context of that, we have the conferees looking at an energy bill that would give away billions of dollars in new subsidies and tax breaks for fossil fuel, for the automobile industry, for the nuclear industry while sadly shortchanging clean, sustainable energy sources.

Having a dependable supply of energy and using it wisely is critical for Americans to be able to have livable communities. However, in response to the terrorist attacks and the call for more stable and predictable energy supply, we should not increase our dependence on fossil fuels in the way that we have for a century. The question is not whether we should reduce our dependence on oil, but whether we have the will; not whether we will reduce dependence on fossil fuel, but how and when we are going to achieve it. What is our strategy?

With the United States holding some 3 percent of the world's oil reserves, yet consuming over 25 percent of the fossil fuels, we will never drill our way out of reliance on the unsustainable sources of oil. But aside for a moment that the vast majority of the oil that we rely upon is concentrated in a handful of countries in an area that has never been particularly stable, but has been growing increasingly unstable over time, much of the recoverable oil in the United States, the 2 or 3 percent, is environmentally and politically difficult to access.

Now, many of my friends on the other side of the aisle in the Republican Party and, of course, the White House believe that drilling for oil in the Arctic Wildlife refuge is an important part of the solution. Well, the fact is that even if we were to disregard the serious questions and problems associated with it, the reserves that we can recover in the Arctic are likely to provide only a few months energy supply for the United States, some have suggested 6 months or less, and it is not going to be available to us for the better part of a decade.

If we, in fact, are concerned about energy security, if we are concerned about potential terrorist threats, putting our reliance on the 800-mile Alaskan pipeline seems to be a rather slender thread to rely upon. Recall that it was just a year ago when we had a drunk with a hunting rifle shoot up the pipeline, spilling almost 300,000 gallons of oil before the problem could be solved, and that was in the early fall.

Consider what would have happened if this drunk had assaulted the pipeline later in the year, in the winter. Interrupting the flow of oil would have caused the entire pipeline to be subject to freezing up, and we would have an 800 mile long piece of Chapstick, hardly a safe and secure method of assuring oil supply to the lower 48 States. If a drunk with a hunting rifle can disrupt the flow, think what would happen along 800 miles if a few determined terrorists decided to inflict damage on it. Not something that we are going to rely upon.

The notion that this is, in fact, part of a comprehensive energy solution that is going to be an important part of solving our problem is, at best, disingenuous for the American public as it is damaging to the environment. The public has made clear its opposition to drilling in the Arctic Wildlife Refuge.

Now, where would the administration take us next? According to the petroleum industry, western Federal lands hold 95 percent of untapped United States oil and 40 percent of untapped natural gas. In the last year, 2001, the administration approved 3,800 permits for companies to drill for oil and gas, the most in one year since 1988. Reflecting for a moment that it has taken eons for the radiant energy from the sun to convert by natural process to fossil fuels, in the course of a few generations we will have used up nearly all of the Earth's entire supply of accessible petroleum.

The question is increasingly not just how much oil is left in the ground, but how long can we go on increasing the rate at which cheap oil is extracted. I think it is clear that there is a finite duration; it is just a matter of time when that curve is crossed and when the cheap oil is reduced, starts to go away that we change the economics of the petroleum industry. One hopes that we can convince our friends in the administration and our colleagues on the other side of the aisle to join the American public in realizing that we do have the technology to meet more of our energy needs through alternatives. Through energy conservation we have not, by any stretch of the imagination, exhausted the potential of energy savings through conservation, through increased full efficiency. Remember that a 3-mile per gallon increase in fuel efficiency for SUVs would offset the entire amount of oil that we expect to extract some day from the Arctic Wildlife Refuge, if we change our policy.

It is an opportunity for us to think about new creative ways to accelerate that progress. In one hour, there is more energy that the Earth receives from the sun, through the solar process, than is the entire year's output in fossil fuels. Energy and fuel efficiency is the quickest, cheapest, cleanest way to save not just energy. Most people will recover in a relatively short period of time over the course of the life of a vehicle the savings for any increase in the price of that vehicle. If they are going to have to have a more expensive SUV, if the people are not going to cut down on the power at all, they will end up in being able to recover those costs

through savings that they will achieve in terms of reduced expenditure that they have. Passenger cars, for example, use more than 40 percent of the oil consumed in America. The average American driver spends 443 hours driving every single year. In fact, America's cars, light trucks, consume one-tenth of the annual global oil production.

Mr. Speaker, we have resources available to us to, in fact, make a difference in energy efficiency, and it is something that we want to focus on with this Congress, not allow this time to get away from us, use the opportunity of the energy conference bill and each opportunity that comes before us from now until we adjourn to be able to advance the cause of America's energy security.

I note, Mr. Speaker, that I have been joined by the gentlewoman from southern California (Ms. SANCHEZ), my colleague, with whom I have been pleased to work on a variety of issues that speak to the environment, to transportation. She has a wide variety of interests that range from the environment to national security. I am honored that she would join us this evening. I yield to the gentlewoman should she have some comments that she would wish to share.

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman from Oregon, and I thank him for coming down to the House floor tonight to speak about such an important issue. With everything going on right now, with our Nation assessing whether to go to war in the Middle East and the state of our economy being so shaky, we in Congress need to make sure that we are asking the right questions.

For instance, we are here tonight to talk about how are we going to achieve a realistic solution to U.S. foreign oil dependence?

Now, it is not like this is a new question. I remember back in 1973, 1974, I am a Californian. We use a lot of oil, we drive a lot of cars, we go a lot of places, we drive long distances. I remember standing in lines and waiting in 100-car lines the last time we had a problem with OPEC and prices going up, and we all swore that we would do something about this and that we should not be so dependent on cars that use so much gas. For a while we remembered that and we started to work on and import and get more gas mileage for our cars. But then what happened? The SUV situation, and now we find that we are back up to those gas guzzlers, once again.

So we have to say to ourselves, this is an opportune time when we can make some real policy decisions and put into play some very important solutions, possible solutions. People ask me all the time, well, what answer do you have, LORETTA, to importing oil from Iraq or from the Middle East or the OPEC countries? There are a lot of ways, and it does not just have to be that we have to go off to the Arctic circle and drill the last plain that we have that is not touched by humans. There are other ways to do this.

Let me give my colleagues an example. I am from southern California. We had an energy crisis about a couple of summers ago, about 18 months ago, blackouts in our production, our factories were being affected because we were not getting the electricity we needed; we had natural gas prices go high on us. Now, we now know that much of that was artificially created. But for the moment, while we were in the middle of all of that, we were asking ourselves, how are we going to solve this problem?

Well, the first thing is consumption. Why is it that we consume the way we do? And we offered incentives at the State level. As it is, I come from a large family. My dad always taught us to turn off the lights as we left the room and turn everything off, so I grew up that way, so our energy bill was low. But the Governor told us, if you conserve 20 percent more than what you normally use, you will get an incredible savings on your electricity bill. Let me tell my colleague, people rose to the occasion in California. We saw an incredible drop in the consumption of electricity. We learned that once again, things that we know, but we do not think about, that we should run our machines, our washers and dryers and dishwashers and stuff at night, rather than during the day when the regular business shift is using that power.

□ 2100

So that we do not have to create more power plants, nor nuclear power plants, divert more rivers, create more energy. We can actually use what we already have, as long as we use it efficiently.

California proved that we could do it. It was not a hardship. We were not killing ourselves to get that done. We understood that it was the right thing to do for the moment, and we could continue, and many people have. Many people have learned to live with less, if you will. We can do that in so many ways.

Why is it that every time that we set standards at the Federal level to require automobiles to get higher gas mileage, and we say it is going to be 7 years off, the companies need to work towards this, why is it that we reach the 7 years, and all of a sudden we need to change the law because nobody invested in that, nobody really did it? We could have done it. If they knew we were going to stick to our guns, they would do that; they would increase the efficiency of our automobiles.

Or we could just remember to put all our shopping trips in one haul. There are so many things that we could do; for instance, offering incentives. Do not punish people, but offer people, companies, incentives for new technologies, to invest more in new technologies for wind and solar and fuel cells. I will bet if we did that and we were real about it, if we put the money behind that, that we would find companies that would be willing to step up and use that and do it and find the solutions so that we would not be so dependent on foreign oil supplies, or even on the need to drill our own supplies that we know exist in some of the States that we have.

We have to build better vehicles. We have to light and heat our buildings more efficiently. I know that by doing that we could lower our dependence on fossil fuel oil, which is the real problem that exists here.

We have said for years that we are going to do it, but we have never stood behind that. We have never, as a Federal Government, as a policy of the people, said: be more efficient. Let us strengthen energy efficiency standards. Let us create incentives for a new generation of vehicles. Let us raise the fuel economy standards; and let us adopt a strong, renewable portfolio standard. If we do this, we will not be dependent on the Iraqs of the world.

I thank my colleague for bringing this to light. We need to discuss this more. We need to get the American people involved in deciding that they are part of the solution towards this dependence that we have on foreign countries because of the oil that they possess.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's comments and her leadership.

I will always remember the visit we took last year with some of our colleagues to the Arctic National Wildlife Refuge, where we were camping on a plain amidst the caribou; where we had a chance to really sense the vastness of that area, to get a feel for what was at stake as we looked at other areas that had been developed and were continuing to be developed for oil production.

It was clear that this was one of America's jewels, and I have appreciated the gentlewoman's commitment in terms of going up there to see it firsthand and the gentlewoman's continued advocacy for a more rational and thoughtful energy policy.

Hopefully, working together, we can advance these causes here in Congress that will make a difference for America's energy security.

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman. I just want to add, it is very important that we save that last frontier. I would like my nieces and nephews to be able to see a part of the North American continent that is the same as it was 100, 200, 600, 1,000 years ago. They deserve a chance to see a plain that is open, that is in its austere and pristine condition. That is a legacy that I think is important for us to protect, especially when we can do it through better efficiency and tightening down and understanding that we are part of our own problem.

Mr. BLUMENAUER. Mr. Speaker, I think the gentlewoman said it well, and I thank her for her participation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BACHUS (at the request of Mr. ARMEY) for noon today and the balance of the week on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. EDDIE BERNICE JOHNSON of Texas) to revise and extend their remarks and include extraneous material:)

Ms. NORTON, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINOJOSA, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. DAVIS of California, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes, today.

(The following Members (at the request of Mrs. BIGGERT) to revise and extend their remarks and include extraneous material:)

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

Mrs. BIGGERT, for 5 minutes, today.

Mr. GRUCCI, for 5 minutes, today.

ADJOURNMENT

Mr. BLUMENAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 5 minutes p.m.), the House adjourned until Thursday, September 26, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9346. A letter from the Under Secretary, Department of Defense, transmitting the Department's report on the Family Subsistence Supplemental Allowance program, pursuant to Public Law 105—85 section 655(a)(2) (111 Stat. 1805); to the Committee on Armed Services.

9347. A letter from the Under Secretary, Department of Defense, transmitting the Department's report entitled, ''Report on Nuclear-Powered Submarine Force Structure,'' pursuant to Public Law 106—398; to the Committee on Armed Services.

9348. A letter from the Attorney-Advisor, Department of Transportation, transmitting the Department's final rule — Amendment of MARAD's Regulations Establishing and Administering Deposit Funds Authorized by Section 1109 of the Merchant Marine Act, 1936, as Amended [Docket No. MARAD-2002-12425] (RIN: 2133-AB47) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

9349. A letter from the Secretary, Department of Education, transmitting the Department's report on Presidential Advisory Committee Recommendations; to the Committee on Education and the Workforce.

9350. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's final rule — List of Nonconforming Vehicles Decided to be Eligible for Importation [Docket No. NHTSA-2002] (RIN: 2127-AI79) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9351. A letter from the Investment Manager, Treasury Division, Army and Air Force Exchange Service, transmitting a report on the Annual Federal Pension Plans, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Reform.

9352. A letter from the Secretary, Department of Transportation, transmitting the Secretary's Management Report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations for the period ending March 31, 2002, pursuant to 31 U.S.C. 9106; to the Committee on Government Reform.

9353. A letter from the Deputy General Counsel, National Science Foundation, transmitting the Foundation's final rule — Antarctic Conservation Act of 1978, Civil Monetary Penalties — received September 23, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9354. A letter from the Acting Assistant Secretary of the Army, Department of Defense, transmitting a report in compliance with the Water Resources Development Act of 2000; to the Committee on Transportation and Infrastructure.

9355. A letter from the Acting Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Safety Zone; Crazy Horse Campground, Colorado River, Lake Havasu, AZ [COTP San Diego 02-021] (RIN: 2115-AA97) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9356. A letter from the Acting Chief, Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule — Liferaft Servicing Intervals [USCG-2001-11118] (RIN: 2115-AG28) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9357. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; CFM International CFM56 Series Turbofan Engines [Docket No. 95-ANE-64-AD; Amendment 39-12876; AD 97-09-02R1] (RIN: 2121-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9358. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, L, L1, and Model SA330F, G, and J Helicopters [Docket No. 2001-SW-47-AD; Amendment 39-12880; AD 2002-18-06] (RIN: 2120-AA64) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9359. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace, Coppertown, MT [Airspace Docket No. 01-ANM-08] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9360. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Using Agency for Restricted Area 2534 A & B, Vandenberg Air Force Base, CA [Docket No. FAA-2002-12302; Airspace Docket No. 02-AWP-05] (RIN: 2120-AA66) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9361. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Stillwater Municipal Airport, Stillwater, OK [Airspace Docket No. 2001-ASW-18] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9362. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Scott Field Airport, Mangum, OK [Airspace Docket No. 2002-ASW-1] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9363. A letter from the Administrator, Small Business Administration, transmitting the Annual Report on Minority Small Business and Capital Ownership Development for Fiscal Year 2001, pursuant to 15 U.S.C. 636(j)(16)(B); to the Committee on Small Business.

9364. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — New Markets Tax Credit [Notice 2002-64] received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9365. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Obligations of States and Political Subdivisions [TD 9016] (RIN: 1545-AY71) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9366. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev Proc 2002-61) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9367. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule — Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev Rul 2002-61) received September 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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. SENSENBRENNER: Committee on Conference. Conference report on H.R. 2215. A bill to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes (Rept. 107–685). Ordered to be printed.

Mr. BURTON: Committee on Government Reform. H.R. 3340. A bill to amend title 5, United States Code, to allow certain catch-up contributions to the Thrift savings Plan to be made by participants age 50 or over (Rept. 107–686). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 487. An act to amend chapter 1 of title 17, United States Code, relating to

the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of a single copy of such performances or displays is not an infringement, and for other purposes (Rept. 107–687). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1811. A bill to provide permanent funding for the payment in lieu of taxes program, and for other purposes (Rept. 107–688). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 2408. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands (Rept. 107–689). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3747. A bill to direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System (Rept. 107–690). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 3896. A bill to repeal the reservation of mineral rights made by the United States when certain lands in Livingston Parish, Louisiana, were conveyed by Public Law 102–562 (Rept. 107–691). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 4853. A bill to provide that land which is owned by the Seminole Tribe of Florida but which is not held in trust by the United States for the Tribe may be mortgaged, leased, or transferred by the Tribe without further approval by the United States; with amendments (Rept. 107–692). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4600. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 107–693, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. TAUZIN: Committee on Energy and Commerce. H.R. 4600. A bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system; with an amendment (Rept. 107–693, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 550. Resolution providing for consideration of the joint resolution (H.J. Res. 111) making continuing appropriations for the fiscal year 2003, and for other purposes (Rept. 107–694). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 551. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 107–695). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 552. Resolution waiving points or order against the conference report to accompany the bill (H.R. 2215) to authorize appropriations for the Department of Justice for fiscal year 2002, and for other purposes (Rept. 107–696). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 553. Resolution providing for consideration of the bill (H.R. 4600) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery room (Rept. 107–697). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. FILNER, Mr. GUTIERREZ, Ms. BROWN of Florida, Ms. CARSON of Indiana, and Mr. RODRIGUEZ):

H.R. 5454. A bill to amend title 38, United States Code, to provide for the annual placement of memorials honoring the service in the Armed Forces of veterans who, at the time of death, were homeless or indigent; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska:

H.R. 5455. A bill to amend title 23, United States Code, relating to streamlining for highway and transit projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. UPTON:

H.R. 5456. A bill to direct the Secretary of Transportation to maintain flight restrictions over major sporting events and other major open assemblies of people; to the Committee on Transportation and Infrastructure.

By Mrs. BIGGERT (for herself, Mrs. MALONEY of New York, Mr. GILLMOR, Mr. WATT of North Carolina, Mr. SHAYS, Mrs. JONES of Ohio, Mr. MANZULLO, Mr. MASCARA, and Mr. FRANK):

H.R. 5457. A bill to amend the Gramm-Leach-Bliley Act to exempt attorneys from the privacy provisions of that Act; to the Committee on Financial Services.

By Mr. BILIRAKIS (for himself, Mr. BROWN of Ohio, Mr. YOUNG of Florida, Mr. LANGEVIN, Mr. HOUGHTON, and Mr. HOYER):

H.R. 5458. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BONIOR:

H.R. 5459. A bill to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community; to the Committee on Resources.

By Mr. CALVERT:

H.R. 5460. A bill to reauthorize and amend the Federal Water Project Recreation Act, and for other purposes; to the Committee on Resources.

By Mr. KINGSTON (for himself, Mr. LARSON of Connecticut, Mr. TOM DAVIS of Virginia, and Mr. LEWIS of Kentucky):

H.R. 5461. A bill to enhance homeland security by encouraging the development of regional comprehensive emergency preparedness and coordination plans; to the Committee on Transportation and Infrastructure.

By Mr. NETHERCUTT (for himself, Ms. DEGETTE, Mr. WELDON of Pennsylvania, and Mr. LAFALCE):

H.R. 5462. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy; to the Committee on Energy and Commerce.

By Mr. PETRI:

H.R. 5463. A bill to amend the Internal Revenue Code of 1986 to allow a dividends paid deduction; to the Committee on Ways and Means.

By Mr. PLATTS:

H.R. 5464. A bill to amend section 4531(c) of the Balanced Budget Act of 1997 to permit payment for ALS intercept services furnished in areas other than rural areas and other than through a volunteer ambulance service; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMBO (for himself, Ms. ESHOO, Mr. SHERMAN, Mr. DOOLEY of California, Mr. COX, Mr. ROHRABACHER, Mr. ISSA, Mr. DREIER, Ms. WATSON, Mr. OSE, Mr. HUNTER, Mr. ROYCE, Mrs. TAUSCHER, Mr. CONDIT, Mr. GARY G. MILLER of California, Mr. RADANOVICH, Mr. WAXMAN, Mr. BERMAN, Mr. MCKEON, Ms. HARMAN, Mr. LEWIS of California, Mr. DOOLITTLE, Mr. CALVERT, Ms. SANCHEZ, Ms. ROYBAL-ALLARD, Ms. WOOLSEY, Mrs. BONO, Mr. CUNNINGHAM, Mr. MATSUI, Mr. FARR of California, Mr. HORN, Mr. LANTOS, Mr. HERGER, and Mr. BECERRA):

H.R. 5465. A bill to designate the facility of the United States Postal Service located at 3131 Arch Airport Road in Stockton, California, as the ''Norman Shumway Post Office Building''; to the Committee on Government Reform.

By Mr. REYNOLDS (for himself and Mr. DOOLITTLE):

H.R. 5466. A bill to amend the Internal Revenue Code of 1986 to simplify and reduce the capital gain rates for all taxpayers and to exclude from gross income 55 percent of the dividends received by individuals, and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Michigan:

H.R. 5467. A bill to reauthorize the program of block grants to States for temporary assistance for needy families for 2 years; to the Committee on Ways and Means.

By Mr. TAYLOR of North Carolina (for himself, Mr. JONES of North Carolina, Mr. KILDEE, and Mr. CARSON of Oklahoma):

H.R. 5468. A bill to provide for a Federal land exchange for the environmental, educational, and cultural benefit of the American public and the Eastern Band of Cherokee Indians, and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Florida:

H.J. Res. 111. A joint resolution making continuing appropriations for the fiscal year 2003, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. LANTOS):

H. Con. Res. 483. Concurrent resolution directing the Clerk of the House of Representatives to make techinical corrections in the enrollment of the bill H.R. 1646; considered and agreed to.

By Mr. CASTLE (for himself and Mr. LAMPSON):

H. Con. Res. 484. Concurrent resolution expressing the sense of the Congress regarding

personal safety for children, and for other purposes; to the Committee on Education and the Workforce.

By Mr. JONES of North Carolina:

H. Con. Res. 485. Concurrent resolution requesting the United States Government to take appropriate action to urge the Government of the People's Republic of China to provide for a fair resolution of the claims of United States citizens who hold Chinese Government bonds on which that Government has defaulted; to the Committee on International Relations.

By Mr. PLATTS (for himself and Mr. MCNULTY):

H. Con. Res. 486. Concurrent resolution expressing the sense of the Congress that there should be established a Pancreatic Cancer Awareness Month; to the Committee on Government Reform.

By Mr. RANGEL (for himself and Mr. GILMAN):

H. Con. Res. 487. Concurrent resolution authorizing the printing as a House document of a volume consisting of the transcripts of the ceremonial meeting of the House of Representatives and Senate in New York City on September 6, 2002, and a collection of statements by Members of the House of Representatives and Senate from the Congressional Record on the terrorist attacks of September 11, 2001; to the Committee on House Administration.

By Mrs. DAVIS of California:

H. Res. 554. A resolution honoring Paul Espinosa for an exceptional career in film and for contributing to a greater appreciation of Hispanic-Americans both past and present; to the Committee on Government Reform.

By Mr. GALLEGLY:

H. Res. 555. A resolution recognizing the continued importance of the trans-Atlantic relationship, promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe, and congratulating the Honorable Benjamin A. Gilman for his efforts to promote a strong trans-Atlantic dialogue; to the Committee on International Relations.

By Mr. PALLONE (for himself, Mr. LAMPSON, Ms. BROWN of Florida, Mr. FOLEY, Mr. FROST, Ms. KAPTUR, Mr. LEVIN, Ms. MILLENDER-MCDONALD, Mrs. MINK of Hawaii, Ms. ROYBAL-ALLARD, Mr. SCHIFF, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. ROTHMAN, Ms. SCHAKOWSKY, Mr. TERRY, Mr. PAYNE, and Mr. ACEVEDO-VILA):

H. Res. 556. A resolution I53Recognizing the ''Code Adam'' child safety program, commending retail business establishments that have implemented programs to protect children from abduction, and urging retail business establishments that have not implemented such program to consider doing so; to the Committee on Energy and Commerce.

By Mr. SHOWS:

H. Res. 557. A resolution expressing support for United States forestry, lumber, wood, paper, and allied product industries and encouraging protection of these industries against the unfair trade practices of the People's Republic of China; to the Committee on Ways and Means.

By Mr. SNYDER (for himself and Mr. BEREUTER):

H. Res. 558. A resolution congratulating the Russian Federation and the citizens of Volgograd on the 60th anniversary of the Russian victory at Stalingrad; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 122: Mr. POMBO.
H.R. 440: Mr. LOBIONDO.
H.R. 536: Mr. BISHOP.
H.R. 826: Ms. ROS-LEHTINEN and Mr. MCNULTY.
H.R. 896: Mr. ANDREWS.
H.R. 1186: Mr. PAUL.
H.R. 1232: Mr. LARSEN of Washington.
H.R. 1296: Mr. KELLER.
H.R. 1331: Mr. LATHAM.
H.R. 1353: Ms. MCCOLLUM.
H.R. 1368: Mr. CANNON.
H.R. 1433: Mr. SMITH of Washington.
H.R. 1555: Mr. MCNULTY.
H.R. 1808: Ms. SOLIS.
H.R. 1841: Ms. BALDWIN, Ms. VELAZQUEZ, Mrs. CHRISTENSEN, Mr. ACKERMAN, Mr. MATSUI, Mr. SHAYS, Mr. WU, Ms. ESHOO, Mr. MCINTYRE, Mr. DINGELL, Ms. HOOLEY of Oregon, Mrs. TAUSCHER, Mr. LEWIS of Georgia, Mr. SCOTT, Mrs. MEEK of Florida, and Mr. DOOLEY of California.
H.R. 1996: Mr. PALLONE.
H.R. 2098: Mr. FOLEY.
H.R. 2117: Mr. SANDERS.
H.R. 2156: Mr. FROST.
H.R. 2290: Mr. WILSON of South Carolina.
H.R. 2373: Mr. SMITH of New Jersey, Mr. SHADEGG, Mr. RYAN of Wisconsin, Mr. CHABOT, Mr. WILSON of South Carolina, Mr. BARTLETT of Maryland, Mr. HOSTETTLER, Mr. DEMINT, and Mr. JONES of North Carolina.
H.R. 2466: Mr. COMBEST.
H.R. 2483: Mr. ISTOOK and Mr. RAMSTAD.
H.R. 2570: Ms. NORTON, Mr. OWENS, and Mr. THOMPSON of Mississippi.
H.R. 2649: Mr. SHOWS, Mr. WAMP, Mr. DEAL of Georgia, Mr. BOEHNER, Mr. HERGER, Mr. DEUTSCH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. COBLE, Mr. GREEN of Wisconsin, Mr. ARMEY, Mr. DAVIS of Illinois, and Mr. POMBO.
H.R. 2874: Mr. LEWIS of Georgia.
H.R. 3109: Mrs. DAVIS of California and Mr. MCINNIS.
H.R. 3139: Mr. RODRIGUEZ.
H.R. 3246: Mr. POMEROY.
H.R. 3278: Mr. CAPUANO.
H.R. 3283: Ms. KAPTUR, Mr. SCHIFF, Mr. KUCINICH, Mr. BAIRD, Mr. ROTHMAN, Mr. GUTIERREZ, Mr. LYNCH, and Mrs. DAVIS of California.
H.R. 3321: Mr. KENNEDY of Rhode Island.
H.R. 3333: Mrs. JO ANN DAVIS of Virginia.
H.R. 3414: Mr. TAYLOR of Mississippi and Mr. BERRY.
H.R. 3450: Mr. TANNER, Mr. LOBIONDO, and Mr. REHBERG.
H.R. 3464: Ms. NORTON.
H.R. 3488: Mr. CROWLEY.
H.R. 3492: Mr. FROST.
H.R. 3681: Mr. SANDERS.
H.R. 3741: Mr. ACKERMAN.
H.R. 3794: Mr. WALSH, Mr. WOLF, and Mr. OBERSTAR.
H.R. 3831: Mr. EHRLICH and Mr. RILEY.
H.R. 3895: Mr. ROYCE and Mr. JEFF MILLER of Florida.
H.R. 4084: Ms. SCHAKOWSKY.
H.R. 4483: Mr. BALDACCI and Mr. HOSTETTLER.
H.R. 4575: Mr. EDWARDS.
H.R. 4582: Mr. GRAHAM.
H.R. 4600: Mr. MCINNIS, Mr. TIAHRT, and Mr. SMITH of Michigan.
H.R. 4614: Mr. ABERCROMBIE.
H.R. 4701: Mr. HEFLEY.
H.R. 4706: Mr. ENGLISH.
H.R. 4763: Mrs. EMERSON, Mr. LANTOS, Mr. FATTAH, Ms. WOOLSEY, Mr. HALL of Texas, Mr. SOUDER, Mr. CLAY, Mr. WOLF, Mr. SIMMONS, and Mr. DAVIS of Illinois.
H.R. 4785: Mr. HEFLEY.
H.R. 4842: Mr. PAUL.
H.R. 4904: Ms. BERKLEY and Mrs. DAVIS of California.
H.R. 4963: Mr. WAXMAN, Mr. LANGEVIN, and Mr. TOOMEY.
H.R. 5016: Mr. WATTS of Oklahoma.
H.R. 5033: Mrs. JO ANN DAVIS of Virginia.
H.R. 5037: Mr. SANDERS.
H.R. 5047: Mrs. MALONEY of New York.
H.R. 5085: Mr. FRANK, Mr. SOUDER, Mr. CLEMENT, Mrs. DAVIS of California, Mr. BISHOP, Mr. SAXTON, and Mr. SAWYER.
H.R. 5119: Mr. NETHERCUTT.
H.R. 5166: Mr. REHBERG.
H.R. 5173: Mr. KOLBE and Mr. PLATTS.
H.R. 5191: Mr. GUTIERREZ.
H.R. 5250: Mr. RANGEL, Mr. DOYLE, Mr. NORWOOD, Ms. WOOLSEY, Mrs. KELLY, Mr. BROWN of South Carolina, Mr. LATOURETTE, and Mr. THUNE.
H.R. 5293: Ms. MCCOLLUM, Ms. BROWN of Florida, Mrs. JONES of Ohio, Mr. NADLER, Mr. GONZALEZ, and Mr. RUSH.
H.R. 5316: Mr. OTTER and Mr. REHBERG.
H.R. 5317: Mr. SOUDER.
H.R. 5319: Mr. AKIN.
H.R. 5326: Mr. BAIRD.
H.R. 5381: Mr. NETHERCUTT.
H.R. 5414: Mr. RILEY.
H.R. 5432: Mrs. THURMAN.
H.R. 5445: Mr. OXLEY, Mr. KELLER, Mr. ANDREWS, and Mr. HOBSON.
H.R. 5446: Mr. COOKSEY.
H.R. 5449: Mr. PASTOR and Mr. BECERRA.
H.J. Res. 6: Mr. EVANS.
H.J. Res. 86: Mr. VITTER.
H.J. Res. 108: Mr. RILEY.
H.J. Res. 110: Mr. BISHOP, Mrs. MEEK of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. CHRISTENSEN, Mr. WYNN, Mr. CUMMINGS, and Mr. CLAY.
H. Con. Res. 333: Ms. SCHAKOWSKY.
H. Con. Res. 432: Mr. FARR of California.
H. Con. Res. 445: Ms. HART, Mr. WICKER, Mr. BACHUS, Mr. ARMEY, Mr. CANTOR, Mr. BARTLETT of Maryland, Mr. GOODLATTE, and Mr. JONES of North Carolina.
H. Con. Res. 447: Mr. CANTOR, Mrs. JONES of Ohio, Mr. STARK, Mr. MENENDEZ, Mr. SMITH of New Jersey, Mr. GUTIERREZ, Ms. WATERS, Mr. SCHAFFER, Mr. DICKS, Mr. GREENWOOD, and Mr. CONYERS.
H. Con. Res. 466: Mr. FROST.
H. Con. Res. 473: Mr. WATT of North Carolina.
H. Con. Res. 477: Mr. FLETCHER, Mr. NEAL of Massachusetts, and Mr. TERRY.
H. Con. Res. 480: Mr. GONZALEZ and Ms. SLAUGHTER.
H. Con. Res. 454: Mr. SERRANO.
H. Con. Res. 468: Mr. SMITH of Michigan and Ms. ROS-LEHTINEN.
H. Con. Res. 484: Mr. PHELPS, Mr. SABO, and Mr. ANDREWS.
H. Con. Res. 522: Mr. ISSA, Mr. BOSWELL, Mr. DOOLEY of California, and Mr. GUTIERREZ.
H. Con. Res. 549: Ms. ROS-LEHTINEN, Mr. ENGLISH, Mr. KERNS,, Mr. BURTON of Indiana, and Mr. FOSSELLA.