

15. The difference between the two parties is Democrats, we want to save the money enough to build our national defense, save Social Security, modernize Medicare, and pay down the national debt instead of ignoring these issues until they become a crisis, giving a tax cut now and make it a crisis later.

I met with so many of my constituents in the last few months, and they recognize our number one priority is to safeguard our own country, protect Social Security, and provide for prescription drugs for our seniors.

The failure to address these issues today will make them be paid for tomorrow. As Democrats, we want to make sure we do that and still have the tax cut.

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#### OUTRAGEOUS GAS PRICES A RESULT OF CLINTON-GORE ADMINISTRATION

(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, the outrageous gas prices that plague this Nation are a direct result of failed energy policies by the Clinton-Gore administration.

High gas prices have devastated Americans from every walk of life, from our seniors on fixed incomes who are struggling to pay for the rising cost of home heating oil, to our families, farmers, and those who rely on transportation to survive.

The jump in prices do not just affect individual family budgets, but also impact the districts across the country that rely on tourism dollars, especially during these popular summer months.

Mr. Speaker, the Clinton-Gore administration has refused to take actions while Americans everywhere have been left to suffer. If this trend continues and gas prices remain high, our economy will certainly feel the impact. This may not be the legacy that President Clinton had in mind.

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#### INCREASING LIMITS ON RETIREMENT ACCOUNTS

(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, when I was 21 years old and flying combat in Korea, I thought I was bulletproof. I never gave one thought about being 65 years old and worrying about retirement. But young and middle-aged workers need to start today to prepare for the future.

This week, the House is going to vote on legislation to increase the annual amount Americans can save in their individual retirement accounts from \$2,000 to \$5,000.

IRAs provide one of the best incentives for Americans to save for their retirement security. It has been nearly 20 years since this \$2,000 limit was set,

and it is way past the time to increase it.

This bill also increases the amount Americans can put into their 401(K) accounts and allow Americans to keep their retirement accounts if they choose to switch. Republicans have worked hard to tear down all the barriers through traditional American values, like family, hard work and savings.

This bill goes a long way to make sure that every American has security.

□

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

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

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#### UNSOLICITED COMMERCIAL ELECTRONIC MAIL ACT OF 2000

Mrs. WILSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3113) to protect individuals, families, and Internet service providers from unsolicited and unwanted electronic mail, as amended.

The Clerk read as follows:

H.R. 3113

*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 "Unsolicited Commercial Electronic Mail Act of 2000".

##### SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) There is a right of free speech on the Internet.

(2) The Internet has increasingly become a critical mode of global communication and now presents unprecedented opportunities for the development and growth of global commerce and an integrated worldwide economy. In order for global commerce on the Internet to reach its full potential, individuals and entities using the Internet and other online services should be prevented from engaging in activities that prevent other users and Internet service providers from having a reasonably predictable, efficient, and economical online experience.

(3) Unsolicited commercial electronic mail can be an important mechanism through which businesses advertise and attract customers in the online environment.

(4) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(5) Unsolicited commercial electronic mail may impose significant monetary costs on Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a fi-

nite volume of mail that such providers, businesses, and institutions can handle without further investment. The sending of such mail is increasingly and negatively affecting the quality of service provided to customers of Internet access service, and shifting costs from the sender of the advertisement to the Internet access service.

(6) While some senders of unsolicited commercial electronic mail messages provide simple and reliable ways for recipients to reject (or "opt-out" of) receipt of unsolicited commercial electronic mail from such senders in the future, other senders provide no such "opt-out" mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(7) An increasing number of senders of unsolicited commercial electronic mail purposefully disguise the source of such mail so as to prevent recipients from responding to such mail quickly and easily.

(8) Many senders of unsolicited commercial electronic mail collect or harvest electronic mail addresses of potential recipients without the knowledge of those recipients and in violation of the rules or terms of service of the database from which such addresses are collected.

(9) Because recipients of unsolicited commercial electronic mail are unable to avoid the receipt of such mail through reasonable means, such mail may invade the privacy of recipients.

(10) In legislating against certain abuses on the Internet, Congress should be very careful to avoid infringing in any way upon constitutionally protected rights, including the rights of assembly, free speech, and privacy.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is substantial government interest in regulation of unsolicited commercial electronic mail;

(2) Internet service providers should not be compelled to bear the costs of unsolicited commercial electronic mail without compensation from the sender; and

(3) recipients of unsolicited commercial electronic mail have a right to decline to receive or have their children receive unsolicited commercial electronic mail.

##### SEC. 3. DEFINITIONS.

In this Act:

(1) CHILDREN.—The term "children" includes natural children, stepchildren, adopted children, and children who are wards of or in custody of the parent, who have not attained the age of 18 and who reside with the parent or are under his or her care, custody, or supervision.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—The term "commercial electronic mail message" means any electronic mail message that primarily advertises or promotes the commercial availability of a product or service for profit or invites the recipient to view content on an Internet web site that is operated for a commercial purpose. An electronic mail message shall not be considered to be a commercial electronic mail message solely because such message includes a reference to a commercial entity that serves to identify the initiator.

(3) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(4) DOMAIN NAME.—The term "domain name" means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—

(A) IN GENERAL.—The term “electronic mail address” means a destination (commonly expressed as a string of characters) to which electronic mail can be sent or delivered.

(B) INCLUSION.—In the case of the Internet, the term “electronic mail address” may include an electronic mail address consisting of a user name or mailbox (commonly referred to as the “local part”) and a reference to an Internet domain (commonly referred to as the “domain part”).

(6) INTERNET.—The term “Internet” has the meaning given that term in section 231(e)(3) of the Communications Act of 1934 (47 U.S.C. 231(e)(3)).

(7) INTERNET ACCESS SERVICE.—The term “Internet access service” has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(8) INITIATE.—The term “initiate”, when used with respect to a commercial electronic mail message, means to originate such message or to procure the transmission of such message.

(9) INITIATOR.—The term “initiator”, when used with respect to a commercial electronic mail message, means the person who initiates such message. Such term does not include a provider of an Internet access service whose role with respect to the message is limited to handling, transmitting, retransmitting, or relaying the message.

(10) PRE-EXISTING BUSINESS RELATIONSHIP.—The term “pre-existing business relationship” means, when used with respect to the initiator and recipient of a commercial electronic mail message, that either of the following circumstances exist:

(A) PREVIOUS BUSINESS TRANSACTION.—

(i) Within the 5-year period ending upon receipt of such message, there has been a business transaction between the initiator and the recipient (including a transaction involving the provision, free of charge, of information requested by the recipient, of goods, or of services); and

(ii) the recipient was, at the time of such transaction or thereafter, provided a clear and conspicuous notice of an opportunity not to receive further messages from the initiator and has not exercised such opportunity.

(B) OPT IN.—The recipient has given the initiator permission to initiate commercial electronic mail messages to the electronic mail address of the recipient and has not subsequently revoked such permission.

(11) RECIPIENT.—The term “recipient”, when used with respect to a commercial electronic mail message, means the addressee of such message.

(12) UNSOLICITED COMMERCIAL ELECTRONIC MAIL MESSAGE.—The term “unsolicited commercial electronic mail message” means any commercial electronic mail message that is sent by the initiator to a recipient with whom the initiator does not have a pre-existing business relationship.

#### SEC. 4. CRIMINAL PENALTY FOR UNSOLICITED COMMERCIAL ELECTRONIC MAIL CONTAINING FRAUDULENT ROUTING INFORMATION.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)(5)—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by inserting “or” after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

“(D) intentionally initiates the transmission of any unsolicited commercial electronic mail message to a protected computer in the United States with knowledge that any domain name, header information, date

or time stamp, originating electronic mail address, or other information identifying the initiator or the routing of such message, that is contained in or accompanies such message, is false or inaccurate;”;

(2) in subsection (c)(2)(A)—

(A) by inserting “(i)” after “in the case of”; and

(B) by inserting before “; and” the following: “, or (ii) an offense under subsection (a)(5)(D) of this section”; and

(3) in subsection (e)—

(A) by striking “and” at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(C) by adding at the end the following new paragraph:

“(10) the terms ‘initiate’, ‘initiator’, ‘unsolicited commercial electronic mail message’, and ‘domain name’ have the meanings given such terms in section 3 of the Unsolicited Commercial Electronic Mail Act of 2000.”.

#### SEC. 5. OTHER PROTECTIONS AGAINST UNSOLICITED COMMERCIAL ELECTRONIC MAIL.

(a) REQUIREMENTS FOR TRANSMISSION OF MESSAGES.—

(1) INCLUSION OF RETURN ADDRESS IN COMMERCIAL ELECTRONIC MAIL.—It shall be unlawful for any person to initiate the transmission of a commercial electronic mail message to any person within the United States unless such message contains a valid electronic mail address, conspicuously displayed, to which a recipient may send a reply to the initiator to indicate a desire not to receive any further messages.

(2) PROHIBITION OF TRANSMISSION OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—If a recipient makes a request to a person to be removed from all distribution lists under the control of such person, it shall be unlawful for such person to initiate the transmission of an unsolicited commercial electronic mail message to such a recipient within the United States after the expiration, after receipt of such request, of a reasonable period of time for removal from such lists. Such a request shall be deemed to terminate a pre-existing business relationship for purposes of determining whether subsequent messages are unsolicited commercial electronic mail messages.

(3) INCLUSION OF IDENTIFIER AND OPT-OUT IN UNSOLICITED COMMERCIAL ELECTRONIC MAIL.—It shall be unlawful for any person to initiate the transmission of any unsolicited commercial electronic mail message to any person within the United States unless the message provides, in a manner that is clear and conspicuous to the recipient—

(A) identification that the message is an unsolicited commercial electronic mail message; and

(B) notice of the opportunity under paragraph (2) not to receive further unsolicited commercial electronic mail messages from the initiator.

(b) ENFORCEMENT OF POLICIES BY INTERNET ACCESS SERVICE PROVIDERS.—

(1) PROHIBITION OF TRANSMISSIONS IN VIOLATION OF POSTED POLICY.—It shall be unlawful for any person to initiate the transmission of an unsolicited commercial electronic mail message to any person within the United States in violation of a policy governing the use of the equipment of a provider of Internet access service for transmission of unsolicited commercial electronic mail messages that meets the requirements of paragraph (2).

(2) REQUIREMENTS FOR ENFORCEABILITY.—The requirements under this paragraph for a policy regarding unsolicited commercial electronic mail messages are as follows:

(A) CLARITY.—The policy shall explicitly provide that compliance with a rule or set of

rules is a condition of use of the equipment of a provider of Internet access service to deliver commercial electronic mail messages.

(B) PUBLICLY AVAILABILITY.—The policy shall be publicly available by at least one of the following methods:

(i) WEB POSTING.—The policy is clearly and conspicuously posted on a World Wide Web site of the provider of Internet access service, which has an Internet domain name that is identical to the Internet domain name of the electronic mail address to which the rule or set of rules applies.

(ii) NOTIFICATION IN COMPLIANCE WITH TECHNOLOGICAL STANDARD.—Such policy is made publicly available by the provider of Internet access service in accordance with a technological standard adopted by an appropriate Internet standards setting body (such as the Internet Engineering Task Force) and recognized by the Commission by rule as a fair standard.

(C) INTERNAL OPT-OUT LIST.—If the policy of a provider of Internet access service requires compensation specifically for the transmission of unsolicited commercial electronic mail messages into its system, the provider shall provide an option to its subscribers not to receive any unsolicited commercial electronic mail messages, except that such option is not required for any subscriber who has agreed to receive unsolicited commercial electronic mail messages in exchange for discounted or free Internet access service.

(3) OTHER ENFORCEMENT.—Nothing in this Act shall be construed to prevent or limit, in any way, a provider of Internet access service from enforcing, pursuant to any remedy available under any other provision of Federal, State, or local criminal or civil law, a policy regarding unsolicited commercial electronic mail messages.

(c) PROTECTION OF INTERNET ACCESS SERVICE PROVIDERS.—

(1) GOOD FAITH EFFORTS TO BLOCK TRANSMISSIONS.—A provider of Internet access service shall not be liable, under any Federal, State, or local civil or criminal law, for any action it takes in good faith to block the transmission or receipt of unsolicited commercial electronic mail messages.

(2) INNOCENT RETRANSMISSION.—A provider of Internet access service the facilities of which are used only to handle, transmit, retransmit, or relay an unsolicited commercial electronic mail message transmitted in violation of subsection (a) shall not be liable for any harm resulting from the transmission or receipt of such message unless such provider permits the transmission or retransmission of such message with actual knowledge that the transmission is prohibited by subsection (a) or subsection (b)(1).

#### SEC. 6. ENFORCEMENT.

(a) GOVERNMENTAL ORDER.—

(1) NOTIFICATION OF ALLEGED VIOLATION.—The Commission shall send a notification of alleged violation to any person who violates section 5 if—

(A) a recipient or a provider of Internet access service notifies the Commission, in such form and manner as the Commission shall determine, that a transmission has been received in violation of section 5; or

(B) the Commission has other reason to believe that such person has violated or is violating section 5.

(2) TERMS OF NOTIFICATION.—A notification of alleged violation shall—

(A) identify the violation for which the notification was issued;

(B) direct the initiator to refrain from further violations of section 5;

(C) expressly prohibit the initiator (and the agents or assigns of the initiator) from further initiating unsolicited commercial

electronic mail messages in violation of section 5 to the designated recipients or providers of Internet access service, effective on the 3rd day (excluding Saturdays, Sundays, and legal public holidays) after receipt of the notification; and

(D) direct the initiator (and the agents or assigns of the initiator) to delete immediately the names and electronic mail addresses of the designated recipients or providers from all mailing lists owned or controlled by the initiator (or such agents or assigns) and prohibit the initiator (and such agents or assigns) from the sale, lease, exchange, license, or other transaction involving mailing lists bearing the names and electronic mail addresses of the designated recipients or providers.

(3) **COVERAGE OF MINOR CHILDREN BY NOTIFICATION.**—Upon request of a recipient of an electronic mail message transmitted in violation of section 5, the Commission shall include in the notification of alleged violation the names and electronic mail addresses of any child of the recipient.

(4) **ENFORCEMENT OF NOTIFICATION TERMS.**—

(A) **COMPLAINT.**—If the Commission believes that the initiator (or the agents or assigns of the initiator) has failed to comply with the terms of a notification issued under this subsection, the Commission shall serve upon the initiator (or such agents or assigns), by registered or certified mail, a complaint stating the reasons for its belief and request that any response thereto be filed in writing with the Commission within 15 days after the date of such service.

(B) **HEARING AND ORDER.**—If the Commission, after an opportunity for a hearing on the record, determines that the person upon whom the complaint was served violated the terms of the notification, the Commission shall issue an order directing that person to comply with the terms of the notification.

(C) **PRESUMPTION.**—For purposes of a determination under subparagraph (B), receipt of any transmission in violation of a notification of alleged violation 30 days (excluding Saturdays, Sundays, and legal public holidays) or more after the effective date of the notification shall create a rebuttable presumption that such transmission was sent after such effective date.

(5) **ENFORCEMENT BY COURT ORDER.**—Any district court of the United States within the jurisdiction of which any transmission is sent or received in violation of a notification given under this subsection shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notification. Failure to observe such order may be punishable by the court as contempt thereof.

(b) **PRIVATE RIGHT OF ACTION.**—

(1) **ACTIONS AUTHORIZED.**—A recipient or a provider of Internet access service may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State, or may bring in an appropriate Federal court if such laws or rules do not so permit, either or both of the following actions:

(A) An action based on a violation of section 5 to enjoin such violation.

(B) An action to recover for actual monetary loss from such a violation in an amount equal to the greatest of—

(i) the amount of such actual monetary loss; or

(ii) \$500 for each such violation, not to exceed a total of \$50,000.

(2) **ADDITIONAL REMEDIES.**—If the court finds that the defendant willfully, knowingly, or repeatedly violated section 5, the court may, in its discretion, increase the amount of the award to an amount equal to not more than three times the amount available under paragraph (1).

(3) **ATTORNEY FEES.**—In any such action, the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

(4) **PROTECTION OF TRADE SECRETS.**—At the request of any party to an action brought pursuant to this subsection or any other participant in such an action, the court may, in its discretion, issue protective orders and conduct legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to prevent possible recurrence of the same or a similar act by another person and to protect any trade secrets of any such party or participant.

**SEC. 7. EFFECT ON OTHER LAWS.**

(a) **FEDERAL LAW.**—Nothing in this Act shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(b) **STATE LAW.**—No State or local government may impose any civil liability for commercial activities or actions in interstate or foreign commerce in connection with an activity or action described in section 5 of this Act that is inconsistent with the treatment of such activities or actions under this Act, except that this Act shall not preempt any civil remedy under State trespass or contract law or under any provision of Federal, State, or local criminal law or any civil remedy available under such law that relates to acts of computer fraud or abuse arising from the unauthorized transmission of unsolicited commercial electronic mail messages.

**SEC. 8. STUDY OF EFFECTS OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL.**

Not later than 18 months after the date of enactment of this Act, the Federal Trade Commission shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this Act and the need (if any) for the Congress to modify such provisions.

**SEC. 9 SEPARABILITY.**

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

**SEC. 10. EFFECTIVE DATE.**

The provisions of this Act shall take effect 90 days after the date of enactment of this Act.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentlewoman from New Mexico (Mrs. WILSON) and the gentleman from Texas (Mr. GREEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from New Mexico (Mrs. WILSON).

GENERAL LEAVE

Mrs. WILSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3113, and to insert extraneous material in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from New Mexico?

There was no objection.

Mrs. WILSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the bill that we have before us incorporates the text of H.R.

3113, which is sponsored by myself and the gentleman from Texas (Mr. GREEN) and which passed the Committee on Commerce. It also incorporates language from H.R. 1686, the bill of the gentleman from Virginia (Mr. GOODLATTE), which creates misdemeanor criminal penalties for fraudulent e-mail schemes. It also makes some technical and conforming changes to the committee bill.

There are a lot of thanks that are due for this bill. I would like to thank the gentleman from Virginia (Chairman BLILEY) from the Committee on Commerce and the gentleman from Illinois (Chairman HYDE) from the Committee on the Judiciary; the gentleman from Michigan (Mr. DINGELL), ranking member from Committee on Commerce; the gentleman from Florida (Chairman MCCOLLUM) from the Subcommittee on Crime; as well as the gentleman from Louisiana (Chairman TAUZIN) from the Subcommittee on Telecommunications, Trade and Consumer Protection; and, of course, the gentleman from Texas (Mr. GREEN); and the gentleman from California (Mr. GARY MILLER) who have worked very hard on this bill.

There are a number of staff members who also have worked hard, and they often do not get much credit around here, so I would like to thank them: Justin Lilley from the office of the gentleman from Virginia (Chairman BLILEY); Andy Levin from the office of Mr. DINGELL; Teddy Jones with the gentleman from Louisiana (Mr. TAUZIN); John Dudas with the gentleman from Illinois (Mr. HYDE); Patrick Woehrle, who works with the gentleman from Texas (Mr. GREEN); Ben Cline from the office of the gentleman from Virginia (Mr. GOODLATTE); Steve Cope, the Legislative Counsel; Paul Callen, the Legislative Counsel; Cliff Riccio; and, of course, my staff member, Luke Rose.

The Internet community in New Mexico also deserves a lot of thanks in teaching me about this problem. But I want to talk a little bit about the problem. The most annoying thing about the Internet is junk e-mail. But it goes beyond just annoying. It also causes tremendous cost to Internet service providers.

Steven Fox is a CEO of a little company in Albuquerque called Associated Information Services. He has 2,000 clients. This is a mom-and-pop Internet service provider. They get about 4,000 e-mails a day generally. But he has been fighting to keep his servers from crashing because they were under a spam attack, getting 400,000 to 2 million e-mails a day, clogging up their computers.

The estimates are that junk e-mail costs the Internet service provider companies \$1 billion a year and a whole lot of hassle. But it goes beyond just the hassle and the cost. Three out of every 10 junk e-mails is pornographic.

I first became aware of this problem shortly after I was elected when I

started getting junk e-mail. The first one had a subject line that said "What your Federal Government does not want you to know." Thinking that this is from one of my constituents who is telling me about yet another failure of the Federal Government, I opened it and found myself in an X-rated e-mail Web site. Well, I guess maybe my Federal Government does not want me to know what naked women look like. That is what I concluded from that.

But I also concluded that that is something that I did not want my children to see if they got an e-mail that said "new toys on the market". That is the problem.

As I found out, as a consumer, one has no right to say do not send me any more of this. It is very likely that the return e-mail address is not accurate anyway; and that, as soon as one replies to it, it validates one's e-mail address, and they sell it to somebody else.

This bill requires a valid return address on unsolicited commercial e-mail. It allows Internet service providers to set and enforce policies including having spam-free Internet service providers. It requires that unsolicited commercial e-mail be labeled, and it requires that people who send unsolicited commercial e-mail respect a consumer's request to be taken off the list.

There is a right of free speech in this country, including commercial free speech on the Internet, but there is no right to force us to listen or to force us to pay the cost of junk e-mail. That is what this bill will take care of.

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

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I rise in strong support of H.R. 3113, the Unsolicited Electronic Mail Act.

As one of the principal authors of the legislation, along with the gentlewoman from New Mexico (Mrs. WILSON), I am very pleased that the House of Representatives will act on this important piece of Internet legislation today.

Over the last decade, Americans have witnessed the development of the Internet and the many associated applications that now make our daily lives easier and more efficient. However, this movement to cyberspace has not occurred without problems.

As more and more people move online, their need for privacy and data management becomes paramount. Just as the Internet provides a personalized window looking out to work and shop through, it can be used by strangers to look into our personal habits and information.

H.R. 3113 will be the first line of defense against people trying to look into our private lives. The legislation's pri-

mary function is to stop individuals and companies from forcing unwanted e-mail messages on to our computers.

Typically, these messages are advertisements for anything from dog food to pornography and, in many cases, come in disguised formats that make the consumer believe the message contains innocent information, as the gentlewoman from New Mexico (Mrs. WILSON) mentioned.

It is only after these messages are delivered and opened that the consumer realizes they have just received a junk e-mail or better known as spam.

Because the Internet provides a low-cost method of advertising, many advertisers tap this technology to send millions of unwanted messages to consumers through the Internet service providers, the ISP.

While these messages may cost the sender almost nothing to initiate, the ISP and the consumer both lose time and money carrying and deleting these messages.

H.R. 3113 limits the ability of spammers to force their messages by forcing spammers to have a clear and conspicuous label on their messages so consumer and ISPs have an easier time identifying and deleting these messages; making sure spammers send clear and accurate router and return address information on their messages so consumers can respond to their message to opt out of future advertisements; providing consumers with the option to opt out reinforced by the ability to seek civil damages for any future violation. Once a consumer requests that their name be taken off whatever list a spammer is using, any further spam messages could result in court action. Allowing ISPs and consumers to initiate civil actions to seek damages from spammers is our last effort.

Taken as a whole, all these provisions empower consumers and our ISPs with the ability to protect both their privacy and their resources.

One point I want to make very clear is spam is not free. Millions of spam messages dumped into an ISP can degrade the system speeds while the servers and routers try to deliver this mail, and consumers waste, must waste time and energy deleting these messages from their computer.

For those Members that may be concerned with the legislation's impact on the first amendment to the bill, it deals only with unsolicited commercial e-mail. This bill would not have any effect on nonprofit fund-raising or any other type of e-mail communications that is not commercially related.

Mr. Speaker, since the problem spam was brought to my attention several years ago in a town hall meeting in my own district, I made it a priority to try and correct the problem we have with the Internet and return it back to my constituents.

H.R. 3113 is a tool that can now be used to filter and stop unwanted intrusions in our home and offices.

Mr. Speaker, I would like to join the gentlewoman from New Mexico (Mrs. WILSON) in thanking many of the members and the staff particularly for their work on this. I would like to thank the gentleman from Virginia (Chairman BLILEY) and the gentleman from Michigan (Mr. DINGELL), our ranking member, for all of their support in getting this legislation passed out of the full Committee on Commerce by unanimous consent.

This is an important piece of legislation. I urge my colleagues to vote in favor of stopping Internet spam.

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

Mrs. WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. TAUZIN), chairman of the Subcommittee on Telecommunications, Trade and Consumer Protection.

Mr. TAUZIN. Mr. Speaker, I rise in support of H.R. 3113, a bill which, for the first time, puts in place meaningful consumer protections against the receipt of spam or unsolicited commercial e-mail.

It is important, first of all, to recognize this is a truly bipartisan effort, 100 percent of the way, 100 percent of the time.

Back in November of last year, the gentlewoman from New Mexico (Mrs. WILSON), who I want to congratulate today, and as flowery a term as I can possibly imagine, she has done Herculean work to bring this to the floor. The gentleman from Texas (Mr. GREEN), like the gentlewoman from New Mexico, has worked so hard in putting together the final compromises.

The gentleman from California (GARY MILLER) who came to us earlier and asked for our consideration of his measure which has now played a significant role in the final version of this bill, along, of course, with the gentleman from Virginia (Mr. BLILEY), chairman, and the gentleman from Michigan (Mr. DINGELL), ranking member, of our committee, who have done such a good job to bring this to the floor today.

We reported the bill out of subcommittee by unanimous vote, and the same thing happened in full committee, all in voice votes, indicating strong support for this bill.

It addresses the substantive concerns of the Committee on the Judiciary as well, by the way. It makes the appropriate adjustments to title XVIII, which was proposed by the gentleman from Virginia (Mr. GOODLATTE), which criminalizes certain egregious spamming activities that will not necessarily be deterred by civil penalties.

□ 1030

In effect, this consensus legislation will protect consumers without infringing upon constitutionally protected commercial speech. It does so by providing consumers layers of protection that, on an aggregate basis, empower

the consumers to rid themselves of spam without imposing an outright ban on unsolicited electronic mail.

First, consumers will have a choice in the marketplace between the ISPs who accept spam and those who do not. Second, if a consumer subscribes to an ISP that does accept spam for dissemination, that consumer will have the right to be placed on an opt-out list administered by the ISP so spam will not be received. And, third, where a consumer not wishing still happens to receive spam, the bill requires that all spam messages contain a valid electronic mail address to which the recipient can send a reply saying no further messages.

Mr. Speaker, this is good legislation; I urge its adoption on the House floor.

Mrs. WILSON. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GARY MILLER), who was not only a leader in pulling this legislation together here in the House but also in California before he was elected, and I would also like to personally thank him for his assistance.

Mr. GARY MILLER of California. Mr. Speaker, it does not cost any more money to send a million e-mails than it does to send one, and that has created a skewed incentive that is harming the Internet with spam.

This is a very important issue to me. I really want to thank the gentlewoman from New Mexico (Mrs. WILSON). She has been a joy to work with, and also the gentleman from Texas (Mr. GREEN) on the Democratic side. But the gentleman from Louisiana (Mr. TAUZIN), his input has been invaluable and his commitment to getting this bill to the floor has caused this bill to be heard today.

I originally became involved in this issue 4 years ago when a constituent of mine was harmed by spam. The e-mail address for his computer business was used as a false return address for spam. His business basically was shut down for days because hundreds of thousands of responses came back and, basically, also sent from expired addresses.

This is simply an issue of unfair cost shifting. More than 90 percent of Internet users receive spam at least weekly. Thirty percent of America Online traffic is spam. For SBC communications, 35 percent of all their e-mail traffic is spam. Out of the 2 million spam messages collected by the spam Recycle Center, over 30 percent was pornography. Many parents are tired of their children pulling up e-mail messages saying "sorry I missed you," just to find out it is a pornographic response to something. Thirty percent of the get-rich schemes come through spam also, many of which target senior citizens. Much of the rest of these solicitations include selling information on how to become a spammer, gambling, or weight loss.

Advertisers are shifting their costs on to our constituents, and that is why we need to give Internet service providers and individuals the tools to protect themselves.

When I became a California State assemblyman, my legislation to allow Internet service providers to protect themselves from spammers became law. Internet service providers have been enforcing this anti-spam policy in court in California; and in most cases, they settle out of court and spammers stop spamming individuals.

Federal legislation is necessary. The part of this legislation that I have worked most hard on says Internet service providers can have a policy regarding spam; they can have it conspicuously posted on their policy; and they can enforce that policy in court and collect damages from spammers, \$500 per message, capped at \$25,000 per day. This forces a spammer to gain permission from the ISP or the individual recipient before the advertiser trespasses on someone's computer equipment.

It is the responsibility of Congress to stop unfair cost shifting that harms our constituents. We did it with faxes, and the problem is even more urgent with e-mail. By allowing ISPs and individuals to control spam, we will take away the ability of fly-by-night advertisers from sending something we do not want in our homes and then forcing us to pay for it. That is the ultimate insult, and it needs to be corrected. It is as bad as having somebody bill us for the junk mail we receive at home at the end of each month.

This legislation is a market-based consumer protection solution to a skewed incentive on the Internet. I urge all my colleagues to support Internet consumers, Internet service providers and e-commerce by supporting this legislation.

Mr. GREEN of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Internet spam will never go away. However, by passing this legislation we will be taking the first steps towards limiting its impact on the overwhelmed e-mail users everywhere.

It is my hope, as the provisions of this legislation begin to take effect, that private industry will continue to develop better and more effective software to combat spam. Our ultimate goal is to intercept and delete spam before it ever reaches the consumer's mailbox, if that is the consumer's decision. If it does make it to the recipient, then filtering software on our personal computers can take care of it.

This bill, though, will not affect those consumers who wish to receive commercial solicitations over the Internet. For those of us who are tired of opening innocent looking e-mails only to find an advertisement for a porn site, this legislation will hopefully curb those unwanted and objectionable messages.

Mr. Speaker, I again thank my colleague, the gentlewoman from New Mexico (Mrs. WILSON), for her efforts on this legislation; and I hope the other body will act quickly to pass this

important consumer protection measure.

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

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

The creation and the growth of the Internet has been one of the most important developments of the second half of the 20th century. It started out as an academic research tool in the 1960s, then moved to the defense world. The Internet today has become the global communications, information, entertainment and commercial medium. All of us want to see electronic commerce flourish, and the Committee on Commerce particularly is focused on making sure that interstate and international commerce remains as free and as open as possible.

In 1996, consumers spent just \$2.6 billion in on-line transactions compared to more than \$50 billion in 1999. That explosive growth will continue. But there are some things about the new medium which create problems for consumers: when someone tries to commit fraud over the Internet; when someone tries to shift costs from the person making and selling a product to those who are carrying the e-mail; and, of course, the right of consumers to say there are some things that I just do not want to have in my in-box.

The reality is, with regular mail, we have rights under Federal law to say I do not want any more of that sent to my mailbox at the end of my road. But we do not have that right with Internet communications and with e-mail. This bill will give us that right, as consumers and as parents, to say there are some things I do not want to see in my in-box.

I am very pleased that we were able to accomplish it. I thank the gentleman from Texas for his cooperation and his help, and the gentleman from California, as well as all of the members of the subcommittee and of the Committee on the Judiciary.

Mr. DINGELL. Mr. Speaker, I rise in support of this very important consumer protection measure. My congratulations go to Representatives GREEN and WILSON, who together have crafted a solution to this insidious problem on the Internet known as "spam."

Spam, or unsolicited commercial e-mail, is no longer a mere nuisance to the 40 million Americans who use the Internet. It has rapidly become an abusive practice whereby innocent users are bombarded with commercial messages over which they have no control.

Worse, the content of these messages is often pornographic. So-called "teaser" images often appear out of nowhere, inviting the recipient to visit one adult site on the Web or another. For many people, especially families who share a computer, these spam messages are more than an intrusion, they are a personal assault.

Spam also imposes real economic costs on Internet users. Many consumers, particularly in rural areas, pay long distance charges when connecting to the Internet. The time spent downloading these unwanted messages translates into real dollars and cents paid by the

consumer. And, of course, the slower the Internet connection, the greater the tab.

The consumer also pays for spam through higher costs incurred by Internet Service Providers, or "ISPs." The exponential growth in spam leaves ISPs with no choice but to expand their server capacity to accommodate the heavier traffic. These investments pose a significant, but unavoidable, burden on ISPs that many must pass along to consumers.

H.R. 3113 is a common-sense approach that will go far to putting an end to this practice. First, it permits an ISP to legally enforce its own policy with regard to whether it will accept spam or not. This protects ISPs and consumers alike. Second, it allows consumers to opt-out of receiving spam from individual senders. And finally, it empowers consumers to "just say no" to receiving future messages from a particular company when he or she has had enough.

Mr. Speaker, again I want to commend my colleagues for their diligent efforts.

Ms. ESHOO. Mr. Speaker, I rise in support of H.R. 3113, The Unsolicited E-Mail Act.

The problem of junk e-mail is reaching epidemic proportions. I've received hundreds of calls and letters from constituents in my congressional district pleading with me to do something about the spam that plagues their computers.

In Silicon Valley, where e-mail is often the communication medium of choice, deleting unwanted messages has posed a significant time and financial burden.

More importantly, the proliferation of unwanted e-mail messages has raised real privacy concerns.

In 1991, Congress passed the Telephone Consumer Protection Act to restrict the use of automated, prerecorded telephone calls and unsolicited commercial faxes on the grounds that they were a nuisance and an invasion of privacy. Shouldn't we provide the same level of protection for e-mail?

Unwanted e-mail also poses a significant burden on the Internet infrastructure and on companies providing Internet access services. Unwanted and unwelcome data have flooded ISPs, considerably increasing their costs for network bandwidth, processing e-mail, and staff time.

H.R. 3113 offers a balanced and effective approach to the junk e-mail problem by ensuring that providers and consumers control their own mailboxes, and still allowing businesses to market by e-mail to the millions of consumers who desire it.

I urge my colleagues to support this thoughtful bill.

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

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentlewoman from New Mexico (Mrs. WILSON) that the House suspend the rules and pass the bill, H.R. 3113, as amended.

The question was taken.

Mrs. WILSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## DRUG ADDICTION TREATMENT ACT OF 2000

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2634) to amend the Controlled Substances Act with respect to registration requirements for practitioners who dispense narcotic drugs in schedule IV or V for maintenance treatment or detoxification treatment, as amended.

The Clerk read as follows:

H.R. 2634

*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 "Drug Addiction Treatment Act of 2000".

### SEC. 2. AMENDMENT TO CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) is amended—

(1) in paragraph (2), by striking "(A) security" and inserting "(i) security", and by striking "(B) the maintenance" and inserting "(ii) the maintenance";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by inserting "(1)" after "(g)";

(4) by striking "Practitioners who dispense" and inserting "Except as provided in paragraph (2), practitioners who dispense"; and

(5) by adding at the end the following paragraph:

"(2)(A) Subject to subparagraphs (D) and (J), the requirements of paragraph (1) are waived in the case of the dispensing (including the prescribing), by a practitioner who is a qualifying physician as defined in subparagraph (G), of narcotic drugs in schedule III, IV, or V or combinations of such drugs if the practitioner meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

"(B) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a physician are that, before the initial dispensing of narcotic drugs in schedule III, IV, or V or combinations of such drugs to patients for maintenance or detoxification treatment, the physician submit to the Secretary a notification of the intent of the physician to begin dispensing the drugs or combinations for such purpose, and that the notification contain the following certifications by the physician:

"(i) The physician is a qualifying physician as defined in subparagraph (G).

"(ii) With respect to patients to whom the physician will provide such drugs or combinations of drugs, the physician has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

"(iii) In any case in which the physician is not in a group practice, the total number of such patients of the physician at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number.

"(iv) In any case in which the physician is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the

basis of the number of physicians in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.

"(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule III, IV, or V or combinations of such drugs are as follows:

"(i) The drugs or combinations of drugs have, under the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act, been approved for use in maintenance or detoxification treatment.

"(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of physicians to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

"(D)(i) A waiver under subparagraph (A) with respect to a physician is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

"(I) The notification under subparagraph (B) is in writing and states the name of the physician.

"(II) The notification identifies the registration issued for the physician pursuant to subsection (f).

"(III) If the physician is a member of a group practice, the notification states the names of the other physicians in the practice and identifies the registrations issued for the other physicians pursuant to subsection (f).

"(ii) The Secretary shall provide to the Attorney General all information contained in such notifications.

"(iii) Upon receiving information regarding a physician under clause (ii), the Attorney General shall assign the physician involved an identification number under this paragraph for inclusion with the registration issued for the physician pursuant to subsection (f). The identification number so assigned clause shall be appropriate to preserve the confidentiality of patients for whom the physician dispenses narcotic drugs under a waiver under subparagraph (A).

"(E)(i) If a physician is not registered under paragraph (1) and, in violation of the conditions specified in subparagraphs (B) through (D), dispenses narcotic drugs in schedule III, IV, or V or combinations of such drugs for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 304(a)(4), consider the physician to have committed an act that renders the registration of the physician pursuant to subsection (f) to be inconsistent with the public interest.

"(ii)(I) A physician who in good faith submits a notification under subparagraph (B) and reasonably believes that the conditions specified in subparagraphs (B) through (D) have been met shall, in dispensing narcotic drugs in schedule III, IV, or V or combinations of such drugs for maintenance treatment or detoxification treatment, be considered to have a waiver under subparagraph (A) until notified otherwise by the Secretary.

"(II) For purposes of subclause (I), the publication in the Federal Register of an adverse determination by the Secretary pursuant to subparagraph (C)(ii) shall (with respect to the narcotic drug or combination involved) be considered to be a notification provided