

Mr. SARBANES. Mr. President, I am pleased to join with Senators COLLINS, AKAKA, WARNER, LIEBERMAN, ALLEN, MIKULSKI, SNOWE, JOHNSON, DAYTON, LAUTENBERG, KENNEDY, DURBIN, CORZINE, LANDRIEU, BINGAMAN, and MURRAY in submitting a resolution expressing the sense of the Congress that parity between Federal civilian pay and military pay should be maintained.

During this unprecedented time in our Nation's history, both members of the uniformed services and civilian Federal employees are maintaining our Nation's defenses, ensuring the security of the homeland, and making remarkable contributions to the general welfare of the United States. Pay parity among all those who serve our Nation appropriately recognizes the crucial work and honorable sacrifices of the civilian Federal workforce. The contributions of civilian employees range from Department of Defense employees working alongside the military in hostile environments abroad to those at the Department of Health and Human Services who consistently achieve critical breakthroughs in science and medicine. The sacrifice of these individuals is made evident by individuals such as CIA employee Mike Spann, the first casualty of the conflict in Afghanistan; Lawrence Foley, an employee of the U.S. Agency for International Development who was assassinated by terrorists in Jordan; Joseph Curseen, Jr. and Thomas Morris, Jr., postal workers who died as a result of the anthrax attacks of 2001; and many others.

Congress has demonstrated a bipartisan and longstanding commitment to the principle of pay parity by providing for equal pay adjustments in each of the last three years and 17 of the last 19 years. The budget proposal presented to Congress for Fiscal Year 2005 included a 3.5 percent pay raise for members of the uniformed services, but only a 1.5 percent pay raise for our dedicated public servants. However, both Houses of Congress reaffirmed their support for equal pay by including a 3.5 percent raise for both civilian and military employees in their respective resolutions and relevant Fiscal Year 2005 appropriations bills.

Providing equitable pay raises for federal employees is not just an issue of fairness. It is also critical to recruiting and retaining talented individuals in public service, and therefore, to successfully administering important Federal programs. Our Federal Government is facing a "human capital" crisis that threatens institutional experience and knowledge at every level. Within the next five years, our government could lose up to half of its workforce to retirement. These vacancies will occur in an era in which those entering the workforce are far less likely to join public service. Numerous studies by groups such as the Partnership for Public Service and the Council for Excellence in Government indicate that young Americans have developed a

more positive attitude towards government and politics in recent years, but are still unlikely to consider government service as a career. One way to address this looming crisis is to take tangible steps to make Federal service more financially attractive.

I should note that despite the pressing need to draw more qualified candidates to Federal service, the Federal Employee Pay Comparability Act (FEPCA)—designed to bring Federal pay in line with private sector pay—has never been fully implemented. If we are serious about resolving our Federal workforce shortage issue, we must also begin a conversation about implementing FEPCA. At a minimum, however, we should recognize the importance of civilian Federal employees by providing equal pay raises to all those who choose to serve our country. Otherwise we risk further reducing the number of qualified candidates we can recruit to civilian federal jobs.

The dedication of both the uniformed services and our civilian employees embody the greatness of our Nation, day in and day out, through their commitment to public service. I urge my colleagues to support this resolution so that the contributions of both are recognized in an equitable manner.

#### AMENDMENTS SUBMITTED & PROPOSED

SA 1. Mr. DURBIN (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill S. 167, to provide for the protection of intellectual property rights, and for other purposes.

#### TEXT OF AMENDMENTS

SA 1. Mr. DURBIN (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an agreement to the bill S. 167, to provide for the protection of intellectual property rights, and for other purposes; as follows:

On page 21, line 7, strike "12" and insert "13".

#### NOTICES OF HEARINGS/MEETINGS

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAMBLISS. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on February 3, 2005 in SD-106 at 11 a.m. The purpose of this hearing will be to examine the effects of Bovine Spongiform Encephalopathy (BSE) on U.S. imports and exports of cattle and beef.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 1, 2005, at 9:30 a.m.,

in open session to receive testimony on death benefits and services available to survivors of military personnel and legislative proposals to enhance these benefits.

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

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 1, 2005, at 10 a.m., on pending Committee business.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 1, 2005 at 9 a.m., to hold a hearing on Iraq.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 1, 2005 at 2:30 p.m., to hold a Business Meeting.

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

#### PRIVILEGES OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that Michael O'Neill, chief counsel of the Senate Judiciary Committee; Brett Tolman, a detailee from the Department of Justice; and Nicholas Rossi, a detailee from the Federal Bureau of Investigation, be granted floor privileges for the first session of the 109th Congress.

Mr. LEAHY. Mr. President, reserving the right to object, and I will not object, I also ask, for purposes of debate on the Gonzales nomination, unanimous consent that floor privileges be granted to Matthew Nelson.

Mr. SPECTER. With that modification, the unanimous consent request is pursued.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that the following individuals be granted privileges of the floor for the duration of the 109th Congress: Grace Chung Becker, a detailee from the U.S. Sentencing Commission; Bruce Artim, a detailee from the National Institute of Health; and Reed O'Connor, a detailee from the Department of Justice.

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

#### FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2005

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from

further consideration of S. 167, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 167) to provide for the protection of intellectual property rights, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that today the Senate will pass the Family Entertainment and Copyright Act of 2005. This bill completes the ambitious package of intellectual property legislation that we undertook, along with our counterparts in the House of Representatives, to enact at the end of the 108th Congress. This is a bipartisan bill that makes important changes to our copyright laws and that will help ensure the preservation of America's cultural heritage. Today's passage of this bill is testimony to the efforts of several in this Chamber to ensure we make good law, capable of swift enactment, and for that I thank in particular the bill's cosponsors, Senators HATCH, FEINSTEIN, ALEXANDER, and CORNYN.

The FECA bill is made up of four important provisions. Title I of the bill contains the ART Act, which will criminalize the use of camcorders to steal movies surreptitiously from the big screen. The second title of the bill is the Family Movie Act, which was designed to allow consumers to view only those portions of movies, in their own homes, that they want to. Title III of the bill contains the Film Preservation Act, legislation that I sponsored in the last Congress. The Film Preservation Act will allow the Library of Congress to continue its important work in preserving America's fading film treasures. What is more, the bill will assist libraries, museums, and archives in preserving films, and in making those works available to researchers and the public. Finally, the bill contains the Preservation of Orphan Works Act, which will correct a drafting error in the Sonny Bono Copyright Term Extension Act and will allow libraries to create copies of orphan works—copyrighted materials that are in the last 20 years of their copyright term, are no longer commercially exploited, and are not available at a reasonable price.

I thank the cosponsors of the Family Entertainment and Copyright Act, and I hope the House of Representatives will move with dispatch to pass and send to the President this consensus legislation.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the technical amendment that is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 1) was agreed to, as follows:

On page 21, line 7, strike “12” and insert “13”.

The bill (S. 167), as amended, was read the third time and passed, as follows:

S. 167

*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 “Family Entertainment and Copyright Act of 2005”.

**TITLE I—ARTISTS’ RIGHTS AND THEFT PREVENTION**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Artists’ Rights and Theft Prevention Act of 2005” or the “ART Act”.

**SEC. 102. CRIMINAL PENALTIES FOR UNAUTHORIZED RECORDING OF MOTION PICTURES IN A MOTION PICTURE EXHIBITION FACILITY.**

(a) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by adding after section 2319A the following new section:

**“§ 2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility**

“(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

“(1) be imprisoned for not more than 3 years, fined under this title, or both; or

“(2) if the offense is a second or subsequent offense, be imprisoned for not more than 6 years, fined under this title, or both.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

“(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided, order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

“(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

“(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

“(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual

work for the purpose of questioning or summoning a law enforcement officer; and

“(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

**“(e) VICTIM IMPACT STATEMENT.—**

“(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

“(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

“(A) producers and sellers of legitimate works affected by conduct involved in the offense;

“(B) holders of intellectual property rights in the works described in subparagraph (A); and

“(C) the legal representatives of such producers, sellers, and holders.

“(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

“(g) DEFINITIONS.—In this section, the following definitions shall apply:

“(1) TITLE 17 DEFINITIONS.—The terms ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion picture’, ‘motion picture exhibition facility’, and ‘transmit’ have, respectively, the meanings given those terms in section 101 of title 17.

“(2) AUDIOVISUAL RECORDING DEVICE.—The term ‘audiovisual recording device’ means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2319A the following:

“2319B. Unauthorized recording of motion pictures in a motion picture exhibition facility.”.

(c) DEFINITION.—Section 101 of title 17, United States Code, is amended by inserting after the definition of “Motion pictures” the following: “The term “motion picture exhibition facility” means a movie theater, screening room, or other venue that is being used primarily for the exhibition of a copyrighted motion picture, if such exhibition is open to the public or is made to an assembled group of viewers outside of a normal circle of a family and its social acquaintances.”.

**SEC. 103. CRIMINAL INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.**

(a) PROHIBITED ACTS.—Section 506(a) of title 17, United States Code, is amended to read as follows:

“(a) CRIMINAL INFRINGEMENT.—

“(1) IN GENERAL.—Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed—

“(A) for purposes of commercial advantage or private financial gain;

“(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000; or

“(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

“(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a copyrighted work, by itself, shall not be sufficient to establish willful infringement of a copyright.

“(3) DEFINITION.—In this subsection, the term ‘work being prepared for commercial distribution’ means—

“(A) a computer program, a musical work, a motion picture or other audiovisual work, or a sound recording, if, at the time of unauthorized distribution—

“(i) the copyright owner has a reasonable expectation of commercial distribution; and

“(ii) the copies or phonorecords of the work have not been commercially distributed; or

“(B) a motion picture, if, at the time of unauthorized distribution, the motion picture—

“(i) has been made available for viewing in a motion picture exhibition facility; and

“(ii) has not been made available in copies for sale to the general public in the United States in a format intended to permit viewing outside a motion picture exhibition facility.”

(b) CRIMINAL PENALTIES.—Section 2319 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Whoever” and inserting “Any person who”; and

(B) by striking “and (c) of this section” and inserting “, (c), and (d)”; and

(2) in subsection (b), by striking “section 506(a)(1)” and inserting “section 506(a)(1)(A)”; and

(3) in subsection (c), by striking “section 506(a)(2) of title 17, United States Code” and inserting “section 506(a)(1)(B) of title 17”; and

(4) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

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

“(d) Any person who commits an offense under section 506(a)(1)(C) of title 17—

“(1) shall be imprisoned not more than 3 years, fined under this title, or both;

“(2) shall be imprisoned not more than 5 years, fined under this title, or both, if the offense was committed for purposes of commercial advantage or private financial gain;

“(3) shall be imprisoned not more than 6 years, fined under this title, or both, if the offense is a second or subsequent offense; and

“(4) shall be imprisoned not more than 10 years, fined under this title, or both, if the offense is a second or subsequent offense under paragraph (2).”; and

(6) in subsection (f), as redesignated—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(3) the term ‘financial gain’ has the meaning given the term in section 101 of title 17; and

“(4) the term ‘work being prepared for commercial distribution’ has the meaning given the term in section 506(a) of title 17.”

**SEC. 104. CIVIL REMEDIES FOR INFRINGEMENT OF A WORK BEING PREPARED FOR COMMERCIAL DISTRIBUTION.**

(a) PREREGISTRATION.—Section 408 of title 17, United States Code, is amended by adding at the end the following:

“(F) PREREGISTRATION OF WORKS BEING PREPARED FOR COMMERCIAL DISTRIBUTION.—

“(1) RULEMAKING.—Not later than 180 days after the date of enactment of this subsection, the Register of Copyrights shall

issue regulations to establish procedures for preregistration of a work that is being prepared for commercial distribution and has not been published.

“(2) CLASS OF WORKS.—The regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution.

“(3) APPLICATION FOR REGISTRATION.—Not later than 3 months after the first publication of a work preregistered under this subsection, the applicant shall submit to the Copyright Office—

“(A) an application for registration of the work;

“(B) a deposit; and

“(C) the applicable fee.

“(4) EFFECT OF UNTIMELY APPLICATION.—An action under this chapter for infringement of a work preregistered under this subsection, in a case in which the infringement commenced no later than 2 months after the first publication of the work, shall be dismissed if the items described in paragraph (3) are not submitted to the Copyright Office in proper form within the earlier of—

“(A) 3 months after the first publication of the work; or

“(B) 1 month after the copyright owner has learned of the infringement.”

(b) INFRINGEMENT ACTIONS.—Section 411(a) of title 17, United States Code, is amended by inserting “preregistration or” after “shall be instituted until”.

(c) EXCLUSION.—Section 412 of title 17, United States Code, is amended by inserting after “section 106A(a)” the following: “, an action for infringement of the copyright of a work that has been preregistered under section 408(f) before the commencement of the infringement and that has an effective date of registration not later than the earlier of 3 months after the first publication of the work or 1 month after the copyright owner has learned of the infringement.”

**SEC. 105. FEDERAL SENTENCING GUIDELINES.**

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of intellectual property rights crimes, including any offense under—

(1) section 506, 1201, or 1202 of title 17, United States Code; or

(2) section 2318, 2319, 2319A, 2319B, or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) take all appropriate measures to ensure that the Federal sentencing guidelines and policy statements described in subsection (a) are sufficiently stringent to deter, and adequately reflect the nature of, intellectual property rights crimes;

(2) determine whether to provide a sentencing enhancement for those convicted of the offenses described in subsection (a), if the conduct involves the display, performance, publication, reproduction, or distribution of a copyrighted work before it has been authorized by the copyright owner, whether

in the media format used by the infringing party or in any other media format;

(3) determine whether the scope of “uploading” set forth in application note 3 of section 2B5.3 of the Federal sentencing guidelines is adequate to address the loss attributable to people who, without authorization, broadly distribute copyrighted works over the Internet; and

(4) determine whether the sentencing guidelines and policy statements applicable to the offenses described in subsection (a) adequately reflect any harm to victims from copyright infringement if law enforcement authorities cannot determine how many times copyrighted material has been reproduced or distributed.

**TITLE II—EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Family Movie Act of 2005”.

**SEC. 202. EXEMPTION FROM INFRINGEMENT FOR SKIPPING AUDIO AND VIDEO CONTENT IN MOTION PICTURES.**

(a) IN GENERAL.—Section 110 of title 17, United States Code, is amended—

(1) in paragraph (9), by striking “and” after the semicolon at the end;

(2) in paragraph (10), by striking the period at the end and inserting “; and”;

(3) by inserting after paragraph (10) the following:

“(11) the making imperceptible, by or at the direction of a member of a private household, of limited portions of audio or video content of a motion picture, during a performance in or transmitted to that household for private home viewing, from an authorized copy of the motion picture, or the creation or provision of a computer program or other technology that enables such making imperceptible and that is designed and marketed to be used, at the direction of a member of a private household, for such making imperceptible, if no fixed copy of the altered version of the motion picture is created by such computer program or other technology.”; and

(4) by adding at the end the following:

“For purposes of paragraph (11), the term ‘making imperceptible’ does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture.

“Nothing in paragraph (11) shall be construed to imply further rights under section 106 of this title, or to have any effect on defenses or limitations on rights granted under any other section of this title or under any other paragraph of this section.”

(b) EXEMPTION FROM TRADEMARK INFRINGEMENT.—Section 32 of the Trademark Act of 1946 (15 U.S.C. 1114) is amended by adding at the end the following:

“(3)(A) Any person who engages in the conduct described in paragraph (11) of section 110 of title 17, United States Code, and who complies with the requirements set forth in that paragraph is not liable on account of such conduct for a violation of any right under this Act. This subparagraph does not preclude liability, nor shall it be construed to restrict the defenses or limitations on rights granted under this Act, of a person for conduct not described in paragraph (11) of section 110 of title 17, United States Code, even if that person also engages in conduct described in paragraph (11) of section 110 of such title.

“(B) A manufacturer, licensee, or licensor of technology that enables the making of limited portions of audio or video content of a motion picture imperceptible as described in subparagraph (A) is not liable on account of such manufacture or license for a violation of any right under this Act, if such manufacturer, licensee, or licensor ensures that

the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or copyright holder of the motion picture. The limitations on liability in subparagraph (A) and this subparagraph shall not apply to a manufacturer, licensee, or licensor of technology that fails to comply with this paragraph.

“(C) The requirement under subparagraph (B) to provide notice shall apply only with respect to technology manufactured after the end of the 180-day period beginning on the date of the enactment of the Family Movie Act of 2005.

“(D) Any failure by a manufacturer, licensee, or licensor of technology to qualify for the exemption under subparagraphs (A) and (B) shall not be construed to create an inference that any such party that engages in conduct described in paragraph (1) of section 110 of title 17, United States Code, is liable for trademark infringement by reason of such conduct.”

(c) DEFINITION.—In this section, the term “Trademark Act of 1946” means 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.).

### TITLE III—NATIONAL FILM PRESERVATION

#### Subtitle A—Reauthorization of the National Film Preservation Board

##### SEC. 301. SHORT TITLE.

This subtitle may be cited as the “National Film Preservation Act of 2005”.

##### SEC. 302. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended—

(1) in subsection (b)—

(A) by striking “film copy” each place that term appears and inserting “film or other approved copy”;

(B) by striking “film copies” each place that term appears and inserting “film or other approved copies”; and

(C) in the third sentence, by striking “copyrighted” and inserting “copyrighted, mass distributed, broadcast, or published”; and

(2) by adding at the end the following:

“(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

“(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

“(2) review the comprehensive national film preservation plan, and amend it to the extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

“(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.”.

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking “20” and inserting “22”;

(2) in subsection (a) (2) by striking “three” and inserting “5”;

(3) in subsection (d) by striking “11” and inserting “12”; and

(4) by striking subsection (e) and inserting the following:

“(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.”.

(c) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179p) is amended by adding at the end the following:

“(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

“(1) title 17, United States Code; and

“(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.”.

(d) USE OF SEAL.—Section 107 (a) of the National Film Preservation Act of 1996 (2 U.S.C. 179g(a)) is amended—

(1) in paragraph (1), by inserting “in any format” after “or any copy”; and

(2) in paragraph (2), by striking “or film copy” and inserting “in any format”.

(e) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking “7” and inserting “13”.

#### Subtitle B—Reauthorization of the National Film Preservation Foundation

##### SEC. 311. SHORT TITLE.

This subtitle may be cited as the “National Film Preservation Foundation Reauthorization Act of 2005”.

##### SEC. 312. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking “nine” and inserting “12”; and

(2) in subsection (b)(4), by striking the second sentence and inserting “There shall be no limit to the number of terms to which any individual may be appointed.”.

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking “District of Columbia” and inserting “the jurisdiction in which the principal office of the corporation is located”.

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting “, or another place as determined by the board of directors” after “District of Columbia”.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed \$530,000 for each of the fiscal years 2005 through 2009. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

“(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under

this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.”.

### TITLE IV—PRESERVATION OF ORPHAN WORKS

#### SEC. 401. SHORT TITLE.

This title may be cited as the “Preservation of Orphan Works Act”.

#### SEC. 402. REPRODUCTION OF COPYRIGHTED WORKS BY LIBRARIES AND ARCHIVES.

Section 108(i) of title 17, United States Code, is amended by striking “(b) and (c)” and inserting “(b), (c), and (h)”.

### APPOINTMENT

The PRESIDING OFFICER. The Chair, in accordance with Public Law 93-618, as amended by Public Law 100-418, on behalf of the President pro tempore and upon the recommendation of the Chairman of the Committee on Finance, appoints the following Members of the Finance Committee as congressional advisers on trade policy and negotiations: the Senator from Iowa, Mr. GRASSLEY; the Senator from Utah, Mr. HATCH; the Senator from Mississippi, Mr. LOTT; the Senator from Montana, Mr. BAUCUS; and the Senator from West Virginia, Mr. ROCKEFELLER.

### DISCHARGE AND REFERRAL OF S. 45

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 45, and the bill be referred to the Committee on the Judiciary.

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

### APPOINTMENT OF SENATOR BURR TO READ WASHINGTON'S FAREWELL ADDRESS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, appoints the Senator from North Carolina, Mr. BURR, to read Washington's Farewell Address on Friday, February 18, 2005.

### COMMENDING THE RESULTS OF THE PALESTINIAN PRESIDENTIAL ELECTIONS

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 27, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 27) commending the results of the January 9, 2005, Palestinian presidential elections.

There being no objection, the Senate proceeded to consider the resolution.