

106TH CONGRESS  
1ST SESSION

**H. R. 1993**

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**AN ACT**

To reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes.

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## AN ACT

To reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Export Enhancement  
3 Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

6 (1) Since it began operations in 1971, the Over-  
7 seas Private Investment Corporation (in this Act re-  
8 ferred to as “OPIC”) has sold investment services  
9 and mobilized private sector resources to assist de-  
10 veloping countries and emerging democracies in the  
11 transition from nonmarket to market economies.

12 (2) In an era of declining Federal budgetary re-  
13 sources, OPIC has consistently demonstrated an  
14 ability to operate on a self-sustaining basis to sup-  
15 port United States companies and promote economic  
16 reform in emerging economies in Africa, the newly  
17 independent states of the former Soviet Union,  
18 Latin America, and the Caribbean.

19 (3) OPIC has played an important role in rein-  
20 forcing United States foreign policy goals and in  
21 strengthening the United States economy by cre-  
22 ating jobs and promoting exports.

23 (4) Over the past 28 years, projects supported  
24 by OPIC have generated over \$58,000,000,000 in  
25 United States exports, mobilized \$121,000,000,000

1 of United States private sector investment, and cre-  
2 ated more than 237,000 United States jobs.

3 (5) OPIC has been run on a sound financial  
4 basis with reserves totaling approximately  
5 \$3,300,000,000 and with an estimated net budget  
6 contribution to the international affairs account of  
7 some \$204,000,000 in fiscal year 2000.

8 (6) OPIC has maintained a claims recovery rate  
9 of 95 percent, settling 254 insurance claims for  
10 \$541,000,000 and recovering all but \$29,000,000  
11 since 1971.

12 (7) OPIC programs have served to rectify mar-  
13 ket failures, including limited market information in  
14 developing countries and underdeveloped capital  
15 markets, by insuring United States firms against  
16 economic and market uncertainties.

17 (8) The Trade and Development Agency (in  
18 this Act referred to as "TDA") promotes United  
19 States business involvement in infrastructure  
20 projects in developing and middle income countries.

21 (9) TDA has generated \$12,300,000,000 in ex-  
22 ports since its inception, with every \$1 in spending  
23 for TDA projects leading to the sale of \$32 in  
24 United States goods and services overseas.

1           (10) The United States and Foreign Commer-  
2           cial Service (in this Act referred to as the “Commer-  
3           cial Service”) plays an important role in helping  
4           United States businesses identify export opportuni-  
5           ties and develop reliable sources of information on  
6           commercial prospects in foreign countries.

7           (11) The Congress has, on several occasions,  
8           encouraged the Commercial Service to focus its re-  
9           sources and efforts in countries or regions in Europe  
10          and Asia to promote greater United States export  
11          activity in those markets.

12          (12) The Congress supports the expansion of  
13          the Rural Export Initiative by the International  
14          Trade Administration (in this Act referred to as the  
15          “ITA”) of the Department of Commerce, particu-  
16          larly those elements related to the use of information  
17          technology and electronic commerce techniques.

18          (13) The Congress is encouraged by the success  
19          of the Market Access and Compliance Unit of the  
20          ITA and supports the Unit’s efforts to develop mo-  
21          bile teams to resolve market access problems and en-  
22          sure compliance by United States trading partners  
23          with trade agreements and commitments.

24          (14) The Congress acknowledges the demands  
25          upon the Market Access and Compliance Unit of the

1 ITA and recommends that priority be given to fund-  
2 ing for this unit to ensure that adequate resources  
3 are available for it to fully implement its mission.

4 **SEC. 3. POLICY RECOMMENDATIONS.**

5 The Congress makes the following declarations:

6 (1) OPIC should set its fees at levels sufficient  
7 to cover all operating costs, repay any subsidy ap-  
8 propriations, and set aside adequate reserves against  
9 future losses.

10 (2) OPIC should maintain a conservative ratio  
11 of reserves to contingent liabilities and limit its obli-  
12 gations in any one country in its worldwide finance  
13 or insurance portfolio.

14 (3) Projects supported by OPIC should not dis-  
15 place commercial finance or insurance offerings and  
16 should encourage private sector financing and insur-  
17 ance participation.

18 (4) Independent auditors should report annually  
19 to the Congress on the level of OPIC's reserves in  
20 relation to its liabilities and provide an analysis of  
21 the trends in the levels of reserves and liabilities and  
22 the composition of its insurance and finance port-  
23 folios, including OPIC's investment funds.

24 (5) OPIC should double the dollar value of its  
25 support for small businesses over the next 4 years.

1           (6) In administering the programs and activi-  
2 ties of the ITA, the Secretary of Commerce should  
3 give particular emphasis to obtaining market access  
4 for United States firms and to securing full compli-  
5 ance with bilateral and multilateral trade agree-  
6 ments.

7           (7) The ITA should facilitate the entrance of  
8 United States businesses into the countries of sub-  
9 Saharan Africa and Latin America.

10          (8) The Commercial Service, within the ITA,  
11 should consider expanding its presence in urban  
12 areas and in urban enterprise areas.

13          (9) OPIC must address concerns that it does  
14 not promptly dispose of legitimate claims brought  
15 with respect to projects insured or guaranteed by  
16 OPIC. The Congress understands the desire of  
17 OPIC to explore all possible arrangements with for-  
18 eign parties. However, OPIC must be aware that  
19 private parties with legitimate claims face financial  
20 obligations that cannot be deferred indefinitely.

21 **SEC. 4. OPIC ISSUING AUTHORITY.**

22          Section 235(a)(2) of the Foreign Assistance Act of  
23 1961 (22 U.S.C. 2195(a)(3)) is amended by striking  
24 “1999” and inserting “2003”.

1 **SEC. 5. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.**

2 (a) **ADDITIONAL REQUIREMENTS.**—Section 231A of  
3 the Foreign Assistance Act of 1961 (22 U.S.C. 2191a)  
4 is amended—

5 (1) by redesignating subsection (b) as sub-  
6 section (c);

7 (2) by inserting after subsection (a) the fol-  
8 lowing new subsection:

9 “(b) **ENVIRONMENTAL IMPACT.**—

10 “(1) **ENVIRONMENTAL ASSESSMENT OR**  
11 **AUDIT.**—The Board of Directors of the Corporation  
12 shall not vote in favor of any action proposed to be  
13 taken by the Corporation that is likely to have sig-  
14 nificant adverse environmental impacts that are sen-  
15 sitive, diverse, or unprecedented, unless for at least  
16 60 days before the date of the vote—

17 “(A) an environmental impact assessment  
18 or initial environmental audit, analyzing the en-  
19 vironmental impacts of the proposed action and  
20 of alternatives to the proposed action has been  
21 completed by the project applicant and made  
22 available to the Board of Directors; and

23 “(B) such assessment or audit has been  
24 made available to the public of the United  
25 States, locally affected groups in the host coun-



1           try, and host country nongovernmental organi-  
2           zations.

3           “(2) DISCUSSIONS WITH BOARD MEMBERS.—

4           Prior to any decision by the Corporation regarding  
5           insurance, reinsurance, guarantees, or financing for  
6           any project, the President of the Corporation or the  
7           President’s designee shall meet with at least one  
8           member of the public who is representative of indi-  
9           viduals who have concerns regarding any significant  
10          adverse environmental impact of that project.

11          “(3) CONSIDERATION AT BOARD MEETINGS.—

12          In making its decisions regarding insurance, reinsur-  
13          ance, guarantees, or financing for any project, the  
14          Board of Directors shall fully take into account any  
15          recommendations made by other interested Federal  
16          agencies, interested members of the public, locally  
17          affected groups in the host country, and host coun-  
18          try nongovernmental organizations with respect to  
19          the assessment or audit described in paragraph (1)  
20          or any other matter related to the environmental ef-  
21          fects of the proposed support to be provided by the  
22          Corporation for the project.”; and

23          (3) in subsection (c), as so redesignated, by  
24          striking “each year” and inserting “every 6  
25          months”.

1           (b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—  
2 The Inspector General of the Agency for International De-  
3 velopment shall review OPIC's procedures for undertaking  
4 to conduct financing, insurance, and reinsurance oper-  
5 ations in order to determine whether OPIC receives suffi-  
6 cient information from project applicants, agencies of the  
7 United States Government, and members of the public of  
8 the United States and other countries on the environ-  
9 mental impact of investments insured, reinsured, or fi-  
10 nanced by OPIC. Not later than 120 days after the date  
11 of the enactment of this Act, the Inspector General shall  
12 report to the Committee on International Relations of the  
13 House of Representatives and the Committee on Foreign  
14 Relations of the Senate on the results of its review. The  
15 report shall include—

16           (1) recommendations for ways in which the  
17 views of the public could be better reflected in  
18 OPIC's procedures;

19           (2) recommendations for what additional infor-  
20 mation should be required of project applicants; and

21           (3) recommendations for environmental stand-  
22 ards that should be used by OPIC in conducting its  
23 financing, insurance, and reinsurance operations.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect 90 days after the date of  
3 the enactment of this Act.

4 **SEC. 6. PROHIBITION ON OPIC FUNDING FOR FOREIGN**  
5 **MANUFACTURING ENTERPRISES.**

6 Section 231 of the Foreign Assistance Act of 1961  
7 (21 U.S.C. 2191) is amended by adding at the end the  
8 following flush sentence:

9 “In addition, the Corporation shall decline to issue any  
10 contract of insurance or reinsurance, or any guaranty, or  
11 to enter into any agreement to provide financing for an  
12 eligible investor’s investment if the investment is to be  
13 made in a manufacturing enterprise in a foreign country,  
14 if such investment would cause a reduction in manufac-  
15 turing in the United States.”.

16 **SEC. 7. REVIEW OF CLAIMS PROCESSING FOR OPIC.**

17 The General Accounting Office is requested to pro-  
18 vide a report not later than 6 months after the date of  
19 the enactment of this Act to the Committee on Inter-  
20 national Relations of the House of Representatives and  
21 the Committee on Foreign Relations of the Senate, which  
22 reviews the claims activity of the Overseas Private Invest-  
23 ment Corporation. The report shall include—

24 (1) an analysis of claims paid, settled and de-  
25 nied by OPIC;

1           (2) the number of claims determinations made  
2           by OPIC which are challenged in arbitration;

3           (3) the number of OPIC's claims denials which  
4           are reversed in arbitration;

5           (4) the number of claims which are withdrawn;  
6           and

7           (5) recommendations for ways in which the in-  
8           terests of OPIC insureds and the public could be  
9           better served by OPIC's claims procedures.

10 **SEC. 8. RESTRICTION ON CONTACTS RELATING TO OPIC**  
11 **CLAIMS SETTLEMENTS.**

12           (a) PUBLICATION OF FEDERAL AGENCY INTERVEN-  
13 TIONS.—Section 237(i) of the Foreign Assistance Act of  
14 1961 (22 U.S.C. 2197(i)) is amended—

15           (1) by inserting “(1)” after “(i)”; and

16           (2) by adding at the end the following:

17           “(2) No other department or agency of the United  
18 States, or officer or employee thereof, may intervene with  
19 the intent to impede or delay in any pending settlement  
20 determination on any claim arising as a result of insur-  
21 ance, reinsurance, or guaranty operations under this title  
22 or under predecessor guaranty authority unless such inter-  
23 vention is published in the Federal Register.

24           “(3) The Corporation shall report to the Congress on  
25 any intervention, with the intent to impede to delay a set-

1 tlement determination by any other department or agency  
2 of the United States, or officer or employee thereof, re-  
3 garding the timing or settlement of any claim arising as  
4 a result of insurance, reinsurance, or guaranty operations  
5 under this title or under predecessor guaranty authority.  
6 The report shall be submitted within 30 days after the  
7 intervention is made.”.

8 **SEC. 9. TRADE AND DEVELOPMENT AGENCY.**

9 (a) PURPOSE.—Section 661(a) of the Foreign Assist-  
10 ance Act of 1961 (22 U.S.C. 2421(a)) is amended by in-  
11 serting before the period at the end of the second sentence  
12 the following: “, with special emphasis on economic sectors  
13 with significant United States export potential, such as  
14 energy, transportation, telecommunications, and environ-  
15 ment”.

16 (b) CONTRIBUTIONS OF COSTS.—Section 661(b) of  
17 the Foreign Assistance Act of 1961 (22 U.S.C. 2421(b))  
18 is amended by adding at the end the following:

19 “(5) CONTRIBUTIONS TO COSTS.—The Trade  
20 and Development Agency shall, to the maximum ex-  
21 tent practicable, require corporations and other enti-  
22 ties to—

23 “(A) share the costs of feasibility studies  
24 and other project planning services funded  
25 under this section; and

1           “(B) reimburse the Trade and Develop-  
2           ment Agency those funds provided under this  
3           section, if the corporation or entity concerned  
4           succeeds in project implementation.”.

5           (c) FUNDING.—Section 661(f) of the Foreign Assist-  
6           ance Act of 1961 (22 U.S.C. 2421(f)) is amended—

7           (1) in paragraph (1)(A) by striking  
8           “\$77,000,000” and all that follows through “1996”  
9           and inserting “\$48,000,000 for fiscal year 2000 and  
10          such sums as may be necessary for each fiscal year  
11          thereafter”; and

12          (2) in paragraph (2)(A), by striking “in fiscal  
13          years” and all that follows through “provides” and  
14          inserting “in carrying out its program, provide, as  
15          appropriate, funds”.

16   **SEC. 10. PROGRAMS OF THE INTERNATIONAL TRADE AD-**  
17                           **MINISTRATION.**

18          (a) FUNDING.—There are authorized to be appro-  
19          priated to the ITA—

20           (1) for fiscal year 2000, \$24,000,000 for its  
21          Market Access and Compliance program,  
22          \$68,000,000 for its Trade Development program,  
23          and \$202,000,000 for the Commercial Service pro-  
24          gram; and

1           (2) for each fiscal year thereafter, such sums as  
2           may be necessary for the programs referred to in  
3           paragraph (1).

4           (b) APPOINTMENTS.—Subject to the availability of  
5           appropriations, the Secretary of Commerce, acting  
6           through the Assistant Secretary of Commerce and Direc-  
7           tor General of the United States and Foreign Commercial  
8           Service, shall take steps to ensure that Commercial Serv-  
9           ice employees are stationed in no fewer than 10 sub-Saha-  
10          ran African countries and one full-time Commercial Serv-  
11          ice employee is stationed in the Baltic states, and that  
12          the Commercial Service has full-time employees in each  
13          country in South and Central America and an adequate  
14          number of employees in the Caribbean to ensure that  
15          United States businesses are made aware of existing mar-  
16          ket opportunities for goods and services.

17          (c) INITIATIVE FOR SUB-SAHARAN AFRICA AND  
18          LATIN AMERICA.—The Secretary of Commerce, acting  
19          through the Undersecretary of Commerce for the Inter-  
20          national Trade Administration, shall make a special effort  
21          to—

22                 (1) identify those goods and services of United  
23                 States companies which are not being exported to  
24                 Latin America and sub-Saharan Africa but which

1 are being exported to countries in those regions by  
2 competitor nations;

3 (2) identify trade barriers and noncompetitive  
4 actions, including violations of intellectual property  
5 rights, that are preventing or hindering the oper-  
6 ation of United States companies in sub-Saharan  
7 Africa and Latin America;

8 (3) publish on an annual basis the information  
9 obtained under paragraphs (1) and (2);

10 (4) bring such information to the attention of  
11 authorities in sub-Saharan Africa and Latin Amer-  
12 ica with the goal of securing greater market access  
13 for United States exporters of goods and services;  
14 and

15 (5) report to the Speaker of the House of Rep-  
16 resentatives and the President of the Senate the re-  
17 sults of the efforts to increase the sales of United  
18 States goods and services in sub-Saharan Africa and  
19 Latin America.

20 (d) REPORTS ON MARKET ACCESS.—

21 (1) ANNUAL REPORTS.—Not later than March  
22 30 after the date of the enactment of this Act, and  
23 annually thereafter, the TPCC should submit to the  
24 Congress, and make available to the public, a report  
25 with respect to those countries selected by the TPCC



1 in which goods or services produced or originating in  
2 the United States, that would otherwise be competi-  
3 tive in those countries, do not have market access.  
4 Each report should contain the following with re-  
5 spect to each such country:

6 (A) ASSESSMENT OF POTENTIAL MARKET  
7 ACCESS.—An assessment of the opportunities  
8 that would, but for the lack of market access,  
9 be available in the market in that country, for  
10 goods and services produced or originating in  
11 the United States in those sectors selected by  
12 the TPCC. In making such assessment, the  
13 TPCC should consider the competitive position  
14 of such goods and services in similarly devel-  
15 oped markets in other countries. Such assess-  
16 ment should specify the time periods within  
17 which such market access opportunities should  
18 reasonably be expected to be obtained.

19 (B) CRITERIA FOR MEASURING MARKET  
20 ACCESS.—Objective criteria for measuring the  
21 extent to which those market access opportuni-  
22 ties described in subparagraph (A) have been  
23 obtained. The development of such objective cri-  
24 teria may include the use of interim objective

1 criteria to measure results on a periodic basis,  
2 as appropriate.

3 (C) COMPLIANCE WITH TRADE AGREE-  
4 MENTS.—An assessment of whether, and to  
5 what extent, the country concerned has materi-  
6 ally complied with existing trade agreements be-  
7 tween the United States and that country. Such  
8 assessment should include specific information  
9 on the extent to which United States suppliers  
10 have achieved additional access to the market in  
11 the country concerned and the extent to which  
12 that country has complied with other commit-  
13 ments under such agreements and under-  
14 standings.

15 (D) ACTIONS TAKEN BY ITA.—An identi-  
16 fication of steps taken by the USTR and ITA  
17 on behalf of United States companies affected  
18 by the lack of market access in that country.

19 (2) SELECTION OF COUNTRIES AND SECTORS.—

20 (A) IN GENERAL.—In selecting countries  
21 and sectors that are to be the subject of a re-  
22 port under paragraph (1), the USTR and ITA  
23 should give priority to—

24 (i) any country with which the United  
25 States has a trade deficit if access to the

1 markets in that country is likely to have  
2 significant potential to increase exports of  
3 United States goods and services; and

4 (ii) any country, and sectors therein,  
5 in which access to the markets will result  
6 in significant employment benefits for pro-  
7 ducers of United States goods and services.

8 The USTR and ITA should also give priority to  
9 sectors which represent critical technologies, in-  
10 cluding those identified by the National Critical  
11 Technologies Panel under section 603 of the  
12 National Science and Technology Policy, Orga-  
13 nization, and Priorities Act of 1976 (42 U.S.C.  
14 6683).

15 (B) FIRST REPORT.—The first report sub-  
16 mitted under paragraph (1) should include  
17 those countries with which the United States  
18 has a substantial portion of its trade deficit.

19 (C) TRADE SURPLUS COUNTRIES.—The  
20 TPCC may include in reports after the first re-  
21 port such countries as the USTR and ITA con-  
22 siders appropriate with which the United States  
23 has a trade surplus but which are otherwise de-  
24 scribed in paragraph (1) and subparagraph (A)  
25 of this paragraph.

1           (e) GLOBAL DIVERSITY AND URBAN EXPORT INITIA-  
2 TIVE FOR THE ITA.—The ITA shall undertake an initia-  
3 tive entitled the “Global Diversity and Urban Export Ini-  
4 tiative” to increase exports from businesses that, because  
5 of their minority ownership, may have been excluded from  
6 export trade, and from businesses in under-served areas,  
7 including inner-city urban areas and urban enterprise  
8 zones. The initiative should use electronic commerce tech-  
9 nology and products as another means of helping such  
10 businesses export overseas.

11           (f) STANDARDS ATTACHES.—Subject to the avail-  
12 ability of appropriations, the International Trade Admin-  
13 istration shall take the necessary steps to increase the  
14 number of standards attaches in the European Union and  
15 in developing countries.

16           (g) EXPANSION OF PROGRAMS TO ASSIST SMALL  
17 BUSINESSES.—The International Trade Administration  
18 shall expand its efforts to assist small businesses in ex-  
19 porting their products and services abroad by using elec-  
20 tronic commerce technology and other electronic means—

21                 (1) to communicate with significantly larger  
22                 numbers of small businesses about the assistance of-  
23                 fered by the ITA to small businesses in exporting  
24                 their products and services abroad; and

25                 (2) to provide such assistance.

1 (h) AUTHORIZATION FOR ADVERTISING.—The ITA is  
2 authorized to advertise in newspapers, business journals,  
3 and other relevant publications and related media to in-  
4 form businesses about the services offered by the ITA.

5 **SEC. 11. BOARD OF DIRECTORS.**

6 Section 233(b) of the Foreign Assistance Act of 1961  
7 (22 U.S.C. 2193(b)) is amended—

8 (1) by striking the second and third sentences;

9 (2) in the fourth sentence by striking “(other  
10 than the President of the Corporation, appointed  
11 pursuant to subsection (c) who shall serve as a Di-  
12 rector, ex officio)”;

13 (3) in the second undesignated paragraph—

14 (A) by inserting “the President of the Cor-  
15 poration, the Administrator of the Agency for  
16 International Development, the United States  
17 Trade Representative, and” after “including”;  
18 and

19 (B) by adding at the end the following:  
20 “The United States Trade Representative may  
21 designate a Deputy United States Trade Rep-  
22 resentative to serve on the Board in place of the  
23 United States Trade Representative.”; and

24 (4) by inserting after the second undesignated  
25 paragraph the following:

1       “There shall be a Chairman and a Vice Chairman  
2 of the Board, both of whom shall be designated by the  
3 President of the United States from among the Directors  
4 of the Board other than those appointed under the second  
5 sentence of the first paragraph of this subsection.”.

6 **SEC. 12. STRATEGIC EXPORT PLAN.**

7       Section 2312(e) of the Export Enhancement Act of  
8 1988 (15 U.S.C. 4727(e)) is amended—

9           (1) by striking “and” at the end of paragraph  
10       (5);

11          (2) by striking the period at the end of para-  
12       graph (6) and inserting a semicolon; and

13          (3) by adding at the end the following:

14           “(7) ensure that all export promotion activities  
15       of the Agency for International Development are  
16       fully coordinated and consistent with those of other  
17       agencies;

18           “(8) identify means for providing more coordi-  
19       nated and comprehensive export promotion services  
20       to, and on behalf of, small and medium-sized busi-  
21       nesses; and

22           “(9) establish a set of priorities to promote  
23       United States exports to, and free market reforms  
24       in, the Middle East, Africa, Latin America, and  
25       other emerging markets, that are designed to stimu-

1 late job growth both in the United States and those  
2 regions and emerging markets.”.

3 **SEC. 13. IMPLEMENTATION OF PRIMARY OBJECTIVES.**

4 The Trade Promotion Coordinating Committee  
5 shall—

6 (1) report on the actions taken or efforts cur-  
7 rently underway to eliminate the areas of overlap  
8 and duplication identified among Federal export pro-  
9 motion activities;

10 (2) coordinate efforts to sponsor or promote  
11 any trade show or trade fair;

12 (3) work with all relevant State and national  
13 organizations, including the National Governors’ As-  
14 sociation, that have established trade promotion of-  
15 fices;

16 (4) report on actions taken or efforts currently  
17 underway to promote better coordination between  
18 State, Federal, and private sector export promotion  
19 activities, including co-location, cost sharing between  
20 Federal, State, and private sector export promotion  
21 programs, and sharing of market research data; and

22 (5) by not later than March 30, 2000, and an-  
23 nually thereafter, include the matters addressed in  
24 paragraphs (1), (2), (3), and (4) in the annual re-  
25 port required to be submitted under section 2312(f)

1 of the Export Enhancement Act of 1988 (15 U.S.C.  
2 4727(f)).

3 **SEC. 14. TIMING OF TPCC REPORTS.**

4 Section 2312(f) of the Export Enhancement Act of  
5 1988 (15 U.S.C. 4727(f)) is amended by striking “Sep-  
6 tember 30, 1995, and annually thereafter,” and inserting  
7 “March 30 of each year.”

Passed the House of Representatives October 13,  
1999.

Attest:

*Clerk.*